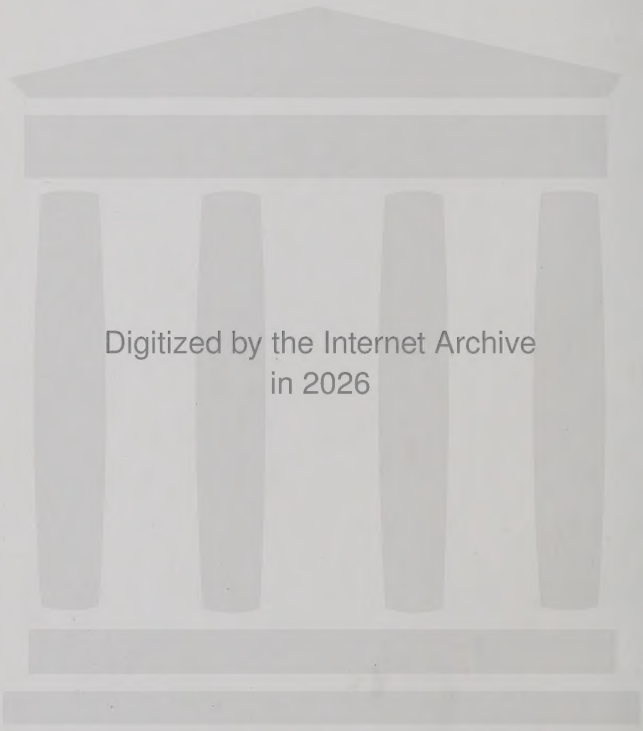
MIDDLE TEMPLE LIBRARY
WITHDRAWN STOCK

KN 366 PAN



Digitized by the Internet Archive
in 2026

https://archive.org/details/daniellschancery0000char

18/50

FORMS AND PRECEDENTS

OF

PROCEEDINGS IN THE CHANCERY DIVISION OF THE HIGH COURT OF JUSTICE,

AND ON APPEAL THEREFROM.

FOURTH EDITION,

WITH SUMMARIES OF THE RULES OF THE SUPREME COURT; PRACTICAL NOTES; AND REFERENCES TO THE SIXTH EDITION OF DANIELL'S CHANCERY PRACTICE.

BY

CHARLES BURNEY, B.A. (Oxon.)

A CHIEF CLERK OF THE HON. MR. JUSTICE CHITTY.

LONDON:
STEVENS AND SONS, 119, CHANCERY LANE,
Law Publishers and Booksellers.
1885.

50/8

LONDON:
BRADBURY, AGNEW, & CO., PRINTERS, WHITEFRIARS.

Middle Temple Library
May 5th 1885.

TO THE

HONORABLE MR. JUSTICE CHITTY

ONE OF THE JUDGES OF THE CHANCERY DIVISION OF

THE HIGH COURT OF JUSTICE,

THIS VOLUME

IS,

BY HIS LORDSHIP'S KIND PERMISSION,

MOST RESPECTFULLY DEDICATED.

PREFACE.

THIS Book is intended to form a companion volume to the Sixth Edition of "Daniell's Chancery Practice." With this view it has seemed convenient to adhere closely to the mode of arrangement which is to be found in the "Practice;" and, though the sequence of subjects there adopted may be considered as capable of improvement, I have not felt myself at liberty to depart from it in any material respect. I have indeed reverted to the plan which was followed in the first and second Editions of the present Work, and have prefaced it with two Chapters of Forms of proceedings which are of daily use; but with this exception the subjects are treated in the order in which they occur in the "Practice," the numbers and titles of the Chapters and Sections of Chapters being almost identical in each case. References to the "Practice" are given as part of the heading of each Chapter and Section, whilst under the marginal title of each Form, a note has been inserted, wherever possible, referring to the particular page in the "Practice" which treats of the subject-matter of the Form.

The important changes in procedure introduced by the Rules of the Supreme Court, 1883, have rendered necessary a thorough revision of the whole Work. The Forms have been carefully corrected throughout, and the notes have been to a great extent rewritten. The Official Forms have been collated with those actually issued from the Central Office, a complete set of which has been very courteously supplied to me.

The Rules and Orders of the Supreme Court relating to the various subjects dealt with have been collected in the form of carefully prepared tabular summaries, as being the readiest mode of putting before the practitioner the real gist of the Rules, to which the summaries collectively form a tolerably complete index. A similar treatment has been applied to the Supreme Court Funds Rules, 1884.

In the notes, which I have endeavoured to compress into as small a compass as was consistent with their practical utility, will be found references to the most popular books of practice: in particular I have very freely referred to that admirable epitome of equity jurisdiction and practice, "Seton on Decrees."

The manuscript of Chapters IV. on "Parties," and XXI., on "Proceedings in Particular Actions," has been perused by Mr. C. E. H. Chadwyck Healey, of Lincoln's Inn: of Chapter XVI., on "Judgments and Execution," by Mr. H. H. Walker, of the Judgment Department: of Chapter XIX., on "Costs," by Mr. C. F. Skirrow, one of the Taxing Masters: of Chapters XX., on "Appeals," and XXXI., on "Discovery," by Mr. Theodore Ribton, of the Inner Temple, one of the Editors of "Daniell's Chancery Practice:" and of Chapter XXVIII., on "Receivers," by Mr. John Ashton Cross, of the Middle Temple. Mr. H. W. Verey, one of the Official Referees, has read so much of Chapter XVI. as relates to "Trial by Referees," and Mr. G. Lavie, one of the Chancery Registrars, so much of Chapter XVI. as deals with proceedings in the Registrars' Office. Mr. E. P. Wolstenholme, one of the Conveyancing Counsel of the Court, has not only most kindly perused the sections of Chapter XXXVIII. which deal with the "Conveyancing Act, 1881," "The Settled Land Acts, 1882 and 1884," and "The Married Women's Property Act, 1882," but has furnished me with the useful note on Searches for Incumbrances printed at pp. 496, 497, which has been revised by Mr. G. T. Jenkins, one of the Masters of the Supreme Court. Mr. Wolstenholme has also settled the Form (No. 1207) of affidavit of result of searches. Mr. Ribton has read the whole of the proof sheets, and Mr. Cross those of the earlier portion of the work. I desire to express my most grateful acknowledgments to all these gentlemen for the very material assistance which they have rendered to me.

I must also cordially thank my friend Mr. R. H. Spens, who has given me the benefit of his practical knowledge on the subject of Appeals to the House of Lords: Mr. J. C. Fox, one of the Agents to the Treasury Solicitor, for a valuable set of Forms with accompanying notes, in connection with proceedings relating to Parliamentary Deposits, and to the Tramways Act, 1870: Mr. C. Letts for very great help in the preparation of the Forms of Pedigree and affidavit in proof, which are printed at pp. 469—475, and which will, I trust, do something to supply an admitted want:

Mr. J. L. Evans, of the Pay Office, and Mr. C. J. Gloster, one of the Cause Clerks, for much useful information connected with their respective departments: and many other friends, professional and official, for practical hints and suggestions during the progress of the Work, and for the loan of papers.

Above all, I must pay a special tribute of gratitude to Mr. John Biddle, of these Chambers, who has throughout shown the liveliest interest in the success of this latest edition of a Work which owes its origin to his labours; who has freely placed at my disposal his unrivalled knowledge of practice, has been ready at every turn with practical suggestions of real value, and has undertaken the arduous task of revising the proof sheets. Whatever merit this book may be found to possess will be largely due to the invaluable help which I have received from him.

The Index has been compiled by Mr. E. W. D. Manson, of the Middle Temple, who has also prepared the Alphabetical Table of Summaries of the Rules. Mr. F. V. Green, of these Chambers, has greatly assisted in the preparation of the Tables of Cases, Statutes, and Rules. In the Table of Cases will be found the contemporary Reports of the cases cited in the notes, down to March, 1885.

The labour of preparing this Edition for the press has not been slight, though it has been greatly lessened by the help which I have received from so many quarters, and will be amply repaid, should the book prove of service to the Profession. I cannot indeed hope, that, in a work travelling over so wide a field, and dealing with so great a mass of detail, I have been fortunate enough to avoid mistakes and omissions. If such shortcomings are detected, I shall feel obliged by having my attention directed to them.

C. B.

Royal Courts of Justice,
April, 1885.

TABLE OF CONTENTS.

PAGE

TABLE OF CASES xxvii

TABLE OF STATUTES lii

TABLE OF RULES AND ORDERS OF COURT lxvi

TABLE OF SUMMARIES OF RULES AND ORDERS ARRANGED ALPHABETICALLY lxxx

LIST OF TEXT BOOKS REFERRED TO lxxxiii

ADDENDA ET CORRIGENDA lxxxv

CHAPTER I.

GENERAL FORMS, 1—21.

SECTION I.—REFERENCE TO THE RECORD—INDORSEMENT ON PROCEEDINGS 1

II.—AFFIDAVITS, OATHS, AND JURATS—AFFIRMATIONS, DECLARATIONS AND AFFIRMATS:

(1.) Affidavits, and oaths and jurats thereto . . . 3
(2.) Affirmations, and declarations and affirmats thereto 11
(3.) Affidavits and affirmations generally . . . 13

III.—AFFIDAVITS OF SERVICE 16

CHAPTER II.

FORMAL PARTS OF MOTION PAPERS—NOTICES—NOTICES OF MOTION—PETITIONS—AND ORDINARY SUMMONSES, 22—27.

CHAPTER III.

PROCEEDINGS BY AND AGAINST PARTICULAR PERSONS, 28—62.

PAGE

Section I.—The Attorney-General 28

II.—Persons trading in co-partnership:

(1.) Plaintiffs 30
(2.) Defendants 32

III.—Paupers:

(1.) Plaintiffs 33
(2.) Defendants 35
(3.) Discharge of pauper order 36

IV.—Bankrupts 36

V.—Infants:

(1.) Plaintiffs 39
(2.) Defendants 45

VI.—Lunatics and persons of unsound mind:

(1.) Plaintiffs 52
(2.) Defendants 54

VII.—Married women 60

CHAPTER IV.

PARTIES TO AN ACTION, 63—92.

Section I.—Generally 64

II.—Adding, striking out, and substituting parties . . 65

III.—Parties by service of claim for relief 68

IV.—Parties by service of notice of the judgment . . 74

V.—Alteration of parties on a change or transmission of interest 84

CHAPTER V.

PROCEEDINGS ON THE PART OF THE PLAINTIFF PREVIOUS TO THE ISSUE OF THE WRIT OF SUMMONS, 93—94.

CHAPTER VI.

THE WRIT OF SUMMONS, 95—153.

PAGE

SECTION I.—THE AUTHORITY TO INSTITUTE THE ACTION 95

II.—THE FORM OF THE WRIT OF SUMMONS :

(1.) Official forms of writs 96
(2.) Description of official and corporate bodies and persons in the writ of summons 103
(3.) The indorsements on the writ of summons . . . 107
A. Indorsement of claim made, or of the relief or remedy required :
(*a.*) In matters assigned by the Supreme Court of Judicature Act, 1873, s. 34, to the Chancery Division . . 107
(*b.*) Money claims where no special indorsement under Order III., rule 6 . 109
(*c.*) Indorsement for costs to be added in the above cases 114
(*d.*) In actions to recover damages or unliquidated demands, or to recover property 114
(*e.*) Indorsement of the particulars of the plaintiff's claims, where the writ is specially indorsed under R. S. C., Order III. 6 121
(*f.*) Indorsement for claim for an account under R. S. C., Order III. 8 . 125
B. Indorsement of address of the person issuing the writ 125
C. Indorsement of the character in which the parties sue or are sued 126

III.—ISSUE OF THE WRIT OF SUMMONS :

(1.) Generally 128
(2.) Leave to issue the writ : when required . . . 129

IV.—CONCURRENT WRITS 130

V.—RENEWAL OF THE WRIT OF SUMMONS 131

VI.—AMENDING THE WRIT OF SUMMONS 132

VII.—REGISTERING THE ACTION AS A LIS PENDENS . . . 136

VIII.—SERVICE OF WRIT OF SUMMONS :

(1.) Acceptance of service 140
(2.) Substituted service 141
(3.) Service out of the jurisdiction 143

IX.—SETTING ASIDE THE WRIT OF SUMMONS OR SERVICE THEREOF 149

CHAPTER VII.

APPEARANCE AND PROCEEDINGS IN DEFAULT OF APPEARANCE, 154—178.

PAGE

SECTION I.—APPEARANCE:

(1.) Ordinary appearance 155
(2.) Appearance after judgment 157
(3.) Appearance in action for the recovery of land . . 158
(4.) Appearance by parties added to the proceedings . . 161
(5.) Proceedings to set aside irregular appearance:
(*a.*) At the instance of the defendant 162
(*b.*) At the instance of the plaintiff 163

II.—PROCEEDINGS IN DEFAULT OF APPEARANCE:

(1.) The affidavit of service 166
(2.) Proceedings where no appearance entered for infant or person of unsound mind 171
(3.) Proceedings in default of appearance to a writ indorsed for a liquidated demand 171
(4.) Proceedings in default of appearance in an action for the recovery of goods and damages, or either of them 172
(5.) Proceedings in default of appearance in an action for the recovery of land 173
(6.) Proceedings in default of appearance where the writ of summons is indorsed with a claim for an account under R. S. C., Order III., rule 8 . . 175
(7.) Defendant's proceedings to set aside a judgment entered for default of appearance 177

CHAPTER VIII.

PROCEEDINGS AFTER APPEARANCE AND BEFORE PLEADINGS, 179—189.

SECTION I.—PROCEEDINGS ON THE PART OF THE PLAINTIFF:

(1.) Plaintiff's application for a statement of names of co-partners in defendant's firm 179
(2.) Plaintiff's application that the action may be retained in a District Registry 179
(3.) Plaintiff's application to sign judgment notwithstanding appearance, where writ indorsed under R. S. C., Order III., rule 6 180
(4.) Plaintiff's application for order for an account, where writ of summons indorsed under R. S. C., Order III., rule 8 182
(5.) Plaintiff's proceedings where the defendant has paid money into Court 182
(6.) Plaintiff's summons for directions under R. S. C., Order XXX. 184

SECTION PAGE

II.—Proceedings on the part of the defendant:

(1.) Obtaining disclosure from the plaintiff and his solicitor 185
(2.) Removal of the action from a District Registry to London 187
(3.) Payment of money into Court in satisfaction . . 188

CHAPTER IX.

THE PLEADINGS IN AN ACTION, 189—246.

Section I.—Generally:

(1.) Pleading matters arising pending the action . . 192
(2.) Amending pleadings 196
(3.) Particulars 201

II.—The statement of claim:

(1.) Generally 203
2.) Forms of statement of claim:
(*a.*) In actions assigned by the Supreme Court of Judicature Act, 1873, s. 34, to the Chancery Division 205
(*b.*) In actions included in R. S. C., Order III., rule 6 211
(*c.*) In actions for damages for breach of contract or duty arising out of contract . . . 211
(*d.*) In actions claiming injunctions, damages, or declarations of rights founded on wrongs . 214
(*e.*) In actions for recovery of land 219

III.—The defence:

(1.) Generally 221
(2.) Payment into Court by defendant 223
(3.) Forms of defence:
(*a.*) To actions specially assigned by the Supreme Court of Judicature Act, 1873, s. 34, to the Chancery Division 226
(*b.*) To actions included in Order III., rule 6, classes A., B., C., D., E., and F. . . . 228
(*c.*) General defences 230
(*d.*) To actions for damages for breach of contract or duty 231
(*e.*) To actions claiming injunctions, damages, or declarations of right, founded upon wrongs 232
(*f*) To actions for recovery of land 234

IV.—Counterclaim and set-off:

(1.) Generally 236
(2.) Forms of counterclaim 238

SECTION PAGE

V.—Reply and subsequent pleadings:

(1.) Reply 239
(2.) Pleadings subsequent to reply 242

VI.—Proceedings in lieu of demurrer 243

VII.—Admissions in the pleadings and application for order thereon 245

CHAPTER X.

PROCEEDINGS ON DEFAULT OF PLEADING, 247—254.

Section I.—Default in delivery of a statement of claim . . 248

II.—Default in delivery of defence:

(1.) In an action for a debt or liquidated demand . . 249
(2.) In an action for the detention of goods and pecuniary damages, or either of them 250
(3.) In an action for a debt or liquidated demand, and also for detention of goods and pecuniary damages, or pecuniary damages only 251
(4.) In an action for the recovery of land . . . 251
(5.) In an action for the recovery of land, and also of mesne profits, arrears of rent or double value, or damages for breach of contract 251
(6.) Where a defence is delivered to part of a claim only 252
(7.) In any other action 252

III.—Default in delivery of reply or subsequent pleading 253

IV.—Setting aside a judgment entered for default in pleading 253

CHAPTER XI.

DISCONTINUANCE AND WITHDRAWAL OF CLAIM OR DEFENCE, 255—257.

CHAPTER XII.

APPLICATION FOR ORDER FOR INQUIRIES AND ACCOUNTS, AND FOR ISSUES WITHOUT PLEADINGS, 258—259.

Section I.—Inquiries and Accounts 258

II.—Issues of fact without pleadings 259

CHAPTER XIII.

EVIDENCE, 260—316.

PAGE

SECTION I.—MATTERS TO BE PROVED:

(1.) Admissions:

(A.) By agreement 260
(B.) By notice 264

(2.) Supplying defect in evidence 268

II.—DOCUMENTARY EVIDENCE:

(1.) Documentary evidence which proves itself:
(A.) Certified copies of public documents . . 269
(B.) Using evidence and other proceedings taken in another action 269
(C.) Obtaining production of an original record of the Court 270
(D.) Obtaining production of documents deposited in Court under an order 271
(2.) Documentary evidence which does not prove itself:
(A.) Notices under 20 & 21 Vict. c. 77, s. 64 . . 271
(B.) Notice to produce documents 272
(C.) Proving documents by affidavit . . . 272

III.—TESTIMONY OF WITNESSES.—EVIDENCE BY AFFIDAVIT:

(1.) Affidavits generally 276
(2.) Trial on affidavit 277

IV.—TESTIMONY OF WITNESSES.—VIVÂ VOCE EVIDENCE:

(1.) Examination of witnesses out of Court:
(A.) Before an examiner of the Supreme Court, or a special examiner 284
(B.) By commission 293
(C.) Examination by letters of request . . . 298
(2.) Translating depositions taken by an examiner or commissioners 299
(3.) Compelling the attendance of witnesses . . . 300
(4.) Oaths, affirmations, and declarations of witnesses examined *vivâ voce* 310

V.—EXAMINATION OF WITNESSES DE BENE ESSE . . . 313

VI.—OBJECTIONS BY WITNESSES 316

CHAPTER XIV.

MOTION FOR JUDGMENT, 317—322.

(1.) The notice of motion 318
(2.) Setting down a motion for judgment 320
(3.) The brief 322

CHAPTER XV.

TRIAL AND HEARING OF THE ACTION AND ISSUES THEREIN, 323—350.

PAGE

SECTION I.—MODES OF TRIAL AND ENTRY FOR TRIAL:

(1.) Place of trial 324
(2.) Notice of trial 324
(3.) Settling the mode of trial 327
(4.) Countermanding notice of trial 328
(5.) Entry of trial 329
(6.) Withdrawal of action 331

II.—TRIAL BY A JUDGE:

(1.) Advancing and postponing the trial 332
(2.) The brief 333
(3.) Proceedings in default of appearance of either party at the trial 335
(4.) Examination of witnesses *viva voce* at the trial . . . 335
(5.) Proceedings where damages awarded at the trial . 336

III.—TRIAL OF THE ACTION OR ISSUES BY A JUDGE AND JURY:

(1.) Obtaining order for trial with a jury 336
(2.) Obtaining a special jury 336
(3.) Obtaining a view by the jury 337
(4.) The brief 337
(5.) Proceedings in default of appearance by either party at the trial 338
(6.) Calling, challenging, and swearing the jury . . 338
(7.) Examination of witnesses *viva voce* at the trial . 339
(8.) The verdict 339
(9.) The Associate's certificate 339

IV.—TRIAL BY REFEREES AND ARBITRATORS:

(1.) Trial by referees 341
(2.) Trial by arbitrators 346

V.—TRIAL IN A COUNTY COURT 347

VI.—NEW TRIALS 348

CHAPTER XVI.

JUDGMENTS AND ORDERS, 351—429.

SECTION I.—FORM OF JUDGMENTS AND ORDERS 351

II.—DRAWING UP, PASSING, AND ENTERING JUDGMENTS AND ORDERS 355

SECTIONS PAGE

III.—Setting aside and rectifying judgments and orders. 358

IV.—Enforcing the execution of judgments and orders:

(1.) Generally 359
(A.) Leave to issue execution 362
(B.) Application to stay execution 365
(C.) Registration of judgments 366
(D.) Enforcing the judgment in Scotland or Ireland 369
(E.) Enforcing a judgment of the Court of Chancery of the County Palatine of Lancaster . 370
(F.) Enforcing a judgment, decree, or order of the Court of the Vice-Warden of the Stannaries 370
(G.) Enforcing orders under 25 & 26 Vict. c. 89, ss. 122, 123 372
(2.) The writ of *fieri facias*:
(A.) Issuing the writ 372
(B.) Execution of the writ 377
(C.) The return of the writ 378
(D.) Writ of *fieri facias* for residue of debt after levy of part 380
(E.) Writ of *venditioni exponas* 381
(F.) Writ of *distringas nuper vicecomitem* . . . 382
(G.) The writs of *fieri facias de bonis ecclesiasticis* and *sequestrari facias de bonis ecclesiasticis* . 383
(3.) The writ of elegit:
(A.) Issuing the writ 386
(B.) Execution of the writ 389
(C.) The return of the writ 390
(D.) Taking an account under an *elegit* . . . 392
(4.) The writ of attachment, committal, and process of contempt:
(A.) Service of the judgment or order . . . 393
(B.) The writ of attachment:
(i.) Application for leave to issue the writ . 395
(ii.) Issuing the writ 397
(iii.) The return of the writ 398
(iv.) Proceedings where the sheriff returns *cepi corpus* 398
(v.) Proceedings where the sheriff returns *non est inventus* 379
(vi.) Application for *habeas corpus* by contemnor 399
(C.) Enforcing by committal to prison:
(i.) For breach of a judgment or order other than for the payment of money . . . 401
(ii.) Committal for special contempts. . . 401
(iii.) Committal of sheriff for not returning writ 402
(D.) Obtaining discharge from custody and clearing contempt 402
(E.) Application to discharge process of contempt
(5.) The writ of sequestration:
(A.) Leave to issue the writ 405

PAGE

(B.) Issuing the writ 406
(C.) The return of the writ 408
(D.) Execution of the writ 409
(E.) Examination *pro interesse suo* 412
(F.) Dissolving the sequestration 412
(6.) Enforcing judgments by sale of the debtor's interest in land :
(A.) Registration of writs of execution pursuant to 27 & 28 Vict. c. 112 413
(B.) Application for sale of judgment debtor's interest in land delivered under a writ of *elegit* 415
(7.) Charging stock or shares 417
(8.) Attachment of debts :
(A.) Discovery in aid of execution 421
(B.) Garnishee orders 422
(9.) Writ of possession 423
(10.) Writ of delivery 426
(11.) Renewal of writs of execution 428
(12.) Amendment of writs of execution 429

CHAPTER XVII.

PROCEEDINGS IN THE JUDGES' CHAMBERS, 430—606.

SECTION I.—GENERAL COURSE OF PROCEEDINGS AT CHAMBERS :

(1.) The summons 430
(2.) Evidence 441
(A.) Evidence by affidavit 441
(B.) Oral evidence 443
(C.) Examination on interrogatories 447
(D.) Documentary evidence 450
(E.) Time for closing evidence 451
(3.) Statements of facts 452
(4.) Scientific assistance 452
(5.) Orders made in Chambers 453
(6.) Vacation business 454
(7.) Allowance pending litigation 455

II.—PROCEEDINGS ORIGINATING IN CHAMBERS.—ADMINISTRATION OF ESTATES AND TRUSTS ON SUMMONS . . . 455

III.—PROCEEDINGS UNDER JUDGMENTS AND ORDERS :

(1.) Service of notice of the judgment, and conduct of action on proceedings :
(A.) Service of notice of the judgment . . . 455
(B.) Conduct of action or proceedings . . . 461
(2.) Carrying in judgment or order 463
(3.) Summons to proceed 463
(4.) Directions as to prosecution 464
(5.) Parties entitled to attend 465

SECTIONS PAGE

(6.) Additional accounts or inquiries 466
(7.) (8.) Particular proceedings.—Inquiries.—Claims . . 467
(9.) Inquiries as to legacies and annuities . . . 489
(10.) Investments in the purchase, or on mortgage of an estate :
(A.) Approval of the investment 491
(B.) The examination of the title 493
(C.) Reference to the conveyancing counsel . . 494
(D.) Searches for incumbrances :
(i.) Non-official searches 497
(ii.) Official searches under Conveyancing Act, 1882 502
(E.) Certificate of title 505
(11.) Accounts 506
(12.) Management of property 525
(13.) Raising money by sale or mortgage 531
(14.) Apportionment of deficient fund 533
(15.) Appointment of new trustees 536
(16.) Settlement of deeds 538
(17.) Sales by the Court 539
(18.) Settlement of bills for Acts of Parliament . . 578

IV.—Proceedings on adjournments to Chambers . . . 579

V.—Infants :
(1.) Appointment and removal of guardians . . . 580
(2.) (3.) Maintenance and advancement.—Management of property 586
(4.) Marriage and marriage settlements 591

VI.—Persons of unsound or weak mind, not so found . . 599

VII.—The chief clerk's certificate 600

CHAPTER XVIII.

HEARING ON FURTHER CONSIDERATION, 607—612.

CHAPTER XIX.

COSTS, 613—620.

Section I.—Costs in general 613

II.—Costs from one party to another 613

III.—Costs out of the fund 614

IV.—The principles of taxation 614

V.—Method of taxation 614

VI.—Payment of costs, how enforced 620

CHAPTER XX.

APPEALS, 621—644.

PAGE

Section I.—Appeals generally 621

II.—Appeals to the Court of Appeal 621

III.—Appeals to the House of Lords 630

CHAPTER XXI.

PROCEEDINGS IN PARTICULAR ACTIONS, 645—682.

Section I.—Proceedings in an action for partition:

(1.) Partition by commissioners 645
(2.) Partition in Chambers 645
(3.) Proceedings under the Partition Acts, 1868, 1876 . 647

II.—Proceedings in an action to settle boundaries . . 651

III.—Proceedings in an action to assign dower . . . 651

IV.—Proceedings in an action for specific performance . 651

V.—Proceedings in an action for foreclosure . . . 655

VI.—Proceedings in actions for redemption 664

VII.—Actions and proceedings relating to patents . . . 665

VIII.—Proceedings in copyright actions 669

IX.—Actions and proceedings relating to trade-marks, trade names, &c. 670

X.—Proceedings in partnership actions 672

XI.—Actions for discovery 675

XII.—Actions to perpetuate testimony 675

XIII.—Interpleader proceedings:

(1.) Interpleader by stakeholder 678
(2.) Interpleader at instance of the sheriff . . . 681

XIV.—Actions of review 682

CHAPTER XXII.

PETITION OF RIGHT, 683—685.

CHAPTER XXIII.

MOTIONS AND PETITIONS, AND ORDERS THEREON, 686—691.

PAGE

SECTION I.—MOTIONS 686

II.—PETITIONS 689

CHAPTER XXIV.

INJUNCTIONS AND RESTRAINING ORDERS, AND ORDERS AND NOTICES IN THE NATURE THEREOF, 692—704.

SECTION I.—INJUNCTIONS AND RESTRAINING ORDERS 692

II.—RESTRAINING ORDERS UNDER 5 VICT. C. 5, S. 4. . . . 698

III.—RESTRAINING TRANSFER OF STOCK, OR SHARES, OR DIVIDENDS THEREON, UNDER R. S. C. ORD. XLVI. . . 699

IV.—STOP ORDERS 702

CHAPTER XXV.

ACTION OF MANDAMUS, 705—706.

CHAPTER XXVI.

THE WRIT OF PROHIBITION, 707—708.

CHAPTER XXVII.

THE WRIT OF *NE EXEAT REGNO*, AND ARREST OF ABSCONDING DEBTORS, 709—712.

SECTION I.—THE WRIT NE EXEAT REGNO 709

II.—ARREST OF ABSCONDING DEBTORS 713

CHAPTER XXVIII.

RECEIVERS, 717—739.

PAGE

Section I.—Mode and effect of appointment 718

II.—Powers, duties, and liabilities of receivers . . . 730

III.—Receivers' accounts 732

IV.—Discharge of receiver 738

V.—Liabilities and rights of sureties 738

CHAPTER XXIX.

BRINGING FUNDS AND EFFECTS INTO COURT AND DEALING THEREWITH, 740—783.

Section I.—The pay office 740

II.—Bringing money and securities into court . . . 742

III.—Placing on deposit and investing money in court . . 753

IV.—Carrying over money and securities in court . . 757

V.—Payment, transfer, and delivery of money and securities out of court:

(1,) Payment of dividends and interest 760

(2.) Payment of capital money, and sale, transfer, and delivery of securities out of Court 766

CHAPTER XXX.

INTERIM DETENTION AND PRESERVATION AND INSPECTION OF PROPERTY, 784—787.

CHAPTER XXXI.

DISCOVERY AND PRODUCTION AND INSPECTION OF DOCUMENTS, 788—812.

Section I.—Discovery by interrogatories 788

II.—Affidavits in answer to interrogatories 794

III.—Production of documents 797

CHAPTER XXXII.

ASCERTAINMENT OF FOREIGN LAW, 813—815.

PAGE

CHAPTER XXXIII.

CONSOLIDATED AND TEST ACTIONS.—TRANSFER AND REMOVAL OF ACTIONS AND PROCEEDINGS, 816—836.

Section I.—Consolidated and test actions 816

II.—Transfer from one division of the high court to another division; or from one judge of the chancery division to another judge of that division . 819

III.—Removal from or to a district registry 823

IV.—Removal of actions and proceedings from the high court to a county court 824

V.—Removal from an inferior court to the high court of justice:

(1.) From a County Court 826
(2.) Removal from the Mayor's Court of the City of London 831
(3.) Removal from other inferior Courts of Record . 834

CHAPTER XXXIV.

SECURITY FOR COSTS, 837—844.

(1.) The application for security:
(A.) Where the plaintiff or a counterclaiming defendant is resident out of the jurisdiction . . 837
(B.) Under the 10th section of the County Courts Act, 1867 838
(C.) Under the 69th section of the Companies Act, 1862 839
(2.) Giving security 839
(3.) Proceedings where no security is given, or where an insufficient security is given, or where the security given becomes insufficient 842
(4.) Discharging the order for security 844
(5.) Payment of costs out of the security fund . . . 844

CHAPTER XXXV.

PAGE

STAYING PROCEEDINGS AND DISMISSING ACTIONS OTHERWISE THAN AT THE TRIAL, 845—857.

SECTION I.—GENERALLY:

(1.) Where action or proceeding commenced without plaintiff's authority 845
(2.) Where default is made by the plaintiff in payment of costs ordered to be paid by him 846
(3.) Where the action is frivolous and vexatious . . 847
(4.) Where defendant submits to satisfy plaintiff's demand 847
(5.) On special terms agreed on by the parties . . 848
(6.) Where the matters in dispute have been agreed to be referred to arbitration 850
(7.) In other cases 850

II.—DISMISSAL FOR WANT OF PROSECUTION 850

III.—WHERE THE SUIT HAS BECOME DEFECTIVE 851

IV.—CASES OF ELECTION 852

CHAPTER XXXVI.

SPECIAL CASE, 853—857.

CHAPTER XXXVII.

SOLICITORS, 858—873.

SECTION I.—SUMMARY JURISDICTION:

(1.) Striking off the roll 858
(2.) Enforcing solicitor's lien 860

II.—RETAINER AND CHANGE OF SOLICITORS:

(1.) Authority to prosecute or defend 863
(2.) Change of solicitors 864

III.—DELIVERY AND TAXATION OF BILLS OF COSTS UNDER STATUTES RELATING TO SOLICITORS 867

CHAPTER XXXVIII.

STATUTORY JURISDICTION, 874—1012.

PAGE

SECTION I.—GENERALLY 874

II.—STATUTES RELATING TO CHARITIES:

(1.) Generally 875
(2.) Sir Samuel Romilly's Act 876
(3.) The Charitable Trusts Acts, 1853 to 1869 . . 879
(4.) Grammar School Act 881
(5.) Church Buildings Acts Amendment Act . . 881
(6.) Burial Acts 881
(7.) Charitable Uses Acts 882

III.—THE TRUSTEE RELIEF ACTS 884

IV.—THE TRUSTEE ACTS, 1850 AND 1852 889

V.—PARLIAMENTARY DEPOSITS:

(1.) Deposit in Court and investment—Payment out in general 898
(2.) Application of deposit under Special Acts relating to Railways, Tramways, and Subways . . 901

VI.—THE LANDS CLAUSES CONSOLIDATION ACTS, 1845, 1860, AND 1869 912

VII.—THE RAILWAYS CONSTRUCTION FACILITIES ACT, 1864 . . 917

VIII.—THE RAILWAY COMPANIES ACT, 1867 917

IX.—STATUTES RELATING TO ARBITRATION 925

X.—ACT FOR PRODUCTION OF CESTUI QUE VIE 932

XI.—LEGACY DUTY ACT 934

XII.—LAND TAX REDEMPTION ACT 938

XIII.—PROPERTY LAW AMENDMENT ACT 940

XIV.—FINES AND RECOVERIES ABOLITION ACT 943

XV.—INVESTMENT ON REAL SECURITIES IN IRELAND ACT . . 944

XVI.—THE COPYHOLD ACTS, 1841, 1843, 1852, AND 1858 . . . 944

XVII.—ACTS RELATING TO ECCLESIASTICAL ESTATES . . . 946

XVIII.—THE DEFENCE ACTS, 1842, 1860, AND 1864 948

XIX.—DRAINAGE AND IMPROVEMENT OF LAND ACTS . . . 950

XX.—INCLOSURE ACT 950

SECTIONS PAGE

XXI.—The merchant shipping acts, 1854 and 1855 . . 951

XXII.—Law of property and trustees relief amendment acts 952

(1.) Establishing a sale under a power . . . 953
(2.) Judicial opinion, advice, or direction . . . 954

XXIII.—The land registry act, 1862 956

XXIV.—The declaration of title act, 1862 956

XXV.—The confirmation of sales act 956

XXVI.—The mortgage debenture acts, 1865 and 1870 . . 957

XXVII.—The county court acts, 1865 and 1867 . . . 959

XXVIII.—Reduction of capital and shares—Companies act, 1867 959

XXIX.—The liquidation act, 1868 971

XXX.—The metropolitan board of works (loans) act, 1869 . 971

XXXI.—The felons property act 972

XXXII.—The life assurance companies acts, 1870 to 1872 . 972

XXXIII.—The national debt act, 1870 973

XXXIV.—The tramways act, 1870 974

XXXV.—The infants custody act, 1873 978

XXXVI.—The consolidated fund (permanent charges redemption) act, 1873 979

XXXVII.—The artisans and labourers dwellings improvements act, 1875 980

XXXVIII.—The local loans act, 1875 980

XXXIX.—The land transfer act, 1875 980

XL.—The customs consolidation act, 1876 981

XLI.—The settled estates act, 1877 981

XLII.—The conveyancing and law of property act, 1881 . 996

XLIII.—The settled land acts, 1882, 1884 999

XLIV.—The married women's property act, 1882 . . . 1010

INDEX 1013

TABLE OF CASES.

A.

A—Bag. PAGE

A. *v.* B., W. N. (1883), 174—Field, J. 163
Adam *v.* Townend, 14 Q. B. D. 103—Q. B. D. 32
Agnew *v.* Usher, 14 Q. B. D. 78 : 51 L. T. 752 : 33 W. R. 126—C. A. . 146
Allen *v.* Jarvis, L. R. 4 Ch. 616—L.JJ. 524
—— *v.* Norris, Norris, *In re*, W. N. (1884), 118—Pearson, J. . . . 462
Ambroise *v.* Evelyn, 11 Ch. D. 759 : 48 L. J. Ch. 686 : 27 W. R. 639—M. R. 253
Amos *v.* Chadwick, 4 Ch. D. 869—V.-C. M. 816, 818
Anderson *v.* Butler's Wharf Co., Butler's Wharf Co., *In re*, 21 Ch. D. 131 : 51 L. J. Ch. 694 : 30 W. R. 723—V.-C. H. 454
Andrew *v.* Aitken, 21 Ch. D. 175 : 51 L. J. Ch. 784 : 46 L. T. 689 : 30 W. R. 701—Fry, J. 86, 236
Anglo-Italian Bank *v.* Davies, 9 Ch. D. 275 : 47 L. J. Ch. 833 : 39 L. T. 244 : 27 W. R. 3—C. A. 415, 719
Anon., W. N. (1875), 193—M. R. 330
—— W. N. (1876), 39, 40—Lindley, J. 801
Arbuckle, *In re*, 14 W. R. 535—V.-C. K. 586
Armitage, *In re*, Smith *v.* Armitage, 24 Ch. D. 727 : 52 L. J. Ch. 711 : 49 L. T. 236 : 32 W. R. 88—Denman, J. 205
Armour *v.* Walker, 25 Ch. D. 673 : 53 L. J. Ch. 413 : 50 L. T. 293 : 32 W. R. 214—C. A. 293
Ashton Charities, *In re*, 22 Beav. 288—M. R. 876
Aste *v.* Stumore, 13 Q. B. D. 326 : 53 L. J. Q. B. 82 : 49 L. T. 742 : 32 W. R. 219—C. A. 790
Attorney-General *v.* Emerson, 10 Q. B. D. 191 : 52 L. J. Q. B. 67 : 48 L. T. 18 : 31 W. R. 191—C. A. 803
—— *v.* Ray, 6 Beav. 335 270
—— *v.* Wilson, 9 Sim. 526 306
Atwood *v.* Chichester, 3 Q. B. D. 722 : 47 L. J. Q. B. 300 : 38 L. T. 48 : 26 W. R. 320—C. A. 177

B.

Back *v.* Inns of Court Hotel Co., Limited, 24 March, 1865, Reg. Lib. A. 488—V.-C. W. 693
Badische Anilin und Soda Fabrik *v.* Levinstein, 24 Ch. D. 156 : 52 L. J. Ch. 704 : 48 L. T. 822 : 31 W. R. 913—Pearson, J. . . . 341, 668, 785
Bagot *v.* Easton, 11 Ch. D. 1 : 47 L. J. Ch. 225 : 37 L. T. 369 : 26 W. R. 66—C. A. 129

Bal—Bla.

PAGE

Bala and Festiniog Railway, *In re*, 25 Ch. D. 168 : 53 L. J. Ch. 127 : 49 L. T. 777 : 32 W. R. 181—Chitty, J. 915

Balfour *v.* Cooper, 23 Ch. D. 472 : 52 L. J. Ch. 495 : 48 L. T. 323 : 31 W. R. 569—C. A. 491

Ballard *v.* Tomlinson, 52 L. J. Ch. 656 : 48 L. T. 515 : 31 W. R. 563 : W. N. (1883), 91—Pearson, J. 453

Balmforth *v.* Pledge, L. R. 1 Q. B. 427 : 35 L. J. Q. B. 169 : 12 Jur. N. S. 644 : 14 L. T. 361—Q. B. 347

Barber *v.* Mackrell, 12 Ch. D. 534 : 41 L. T. 201 : 27 W. R. 894—C. A. 258, 466

Barker, *In re*, 1 W. R. 196—V.-C. W. 895

—— *In re*, W. N. (1884), 237—Pearson, J. 938

Bartholomew *v.* Freeman, 3 C. P. D. 316 : 38 L. T. 814 : 26 W. R. 743—C. P. D. 785

Bates *v.* Eley, 1 Ch. D. 473 : 45 L. J. Ch. 250—V.-C. B. 507

Bathurst *v.* Murray, 8 Ves. 74 596

Batthyany's Estate, *In re*, Batthyany *v.* Walford, 32 W. R. 379 : W. N. (1884), 37—Chitty, J. 245

Baynton *v.* Collins, 27 Ch. D. 604 : 53 L. J. Ch. 1112 : 51 L. T. 681 : 33 W. R. 41—Chitty, J. 62

Beale *v.* Ruston, W. N. (1878), 179—M. R. 65

Bedborough *v.* Army and Navy Hotel Co., 53 L. J. Ch. 658 : 50 L. T. 173 —Kay, J. 345

Beddgelert Railway Co., *In re*, 3 June, 1870, Reg. Lib. A. 1314—V.-C. S. . 918

Beddington *v.* Beddington, 1 P. D. 426 : 45 L. J. P. 44 : 34 L. T. 366 : 24 W. R. 348—P. D. 130

Beeswing, The, *In re*, 10 P. D. 18 : 54 L. J. P. 7 : 33 W. R. 319—C. A. . 627

Belaney *v.* Ffrench, L. R. 8 Ch. 918—L. J. James 863

Bell *v.* Smith, 3 Dec. 1869, Rolls Lib.—M. R. 810

Bell & Co. *v.* Von Dadelzen, W. N. (1883), 208—Field, J. 73

Benecke *v.* Frost, 1 Q. B. D. 419 : 45 L. J. Q. B. 693 : 34 L. T. 728 : 24 W. R. 669—Q. B. D. 73

Bennett *v.* Bowen, Bowen, *In re*, 20 Ch. D. 538 : 51 L. J. Ch. 825 : 47 L. T. 114—Fry, J. 175

Berkeley *v.* The Standard Discount Co., 9 Ch. D. 643 : 26 W. R. 852—V.-C. M. 792

Bianca, The, 8 P. D. 91 : 52 L. J. P. 56 : 48 L. T. 440 : 31 W. R. 954—P. D. 69, 72, 73

Bicknell *v.* Bicknell, 30 April, 1863, Reg. Lib. A. 1017—M. R. . . . 44

Bidder *v.* Bridges, 26 Ch. D. 1 : 53 L. J. Ch. 479 : 50 L. T. 287 : 32 W. R. 445—C. A. 3, 313, 314

—— *v.* —— 51 L. T. 818 : 33 W. R. 272 : W. N. (1884), 250—Kay, J. 794

Bignold, *In re*, L. R. 7 Ch. 223—L. JJ. 895

Birch *v.* Mather, 22 Ch. D. 629 : 52 L. J. Ch. 292 : 31 W. R. 362—Chitty, J. 790

Birmingham Brewery, &c., Co., *In re*, 52 L. J. Ch. 358 : 48 L. T. 632 : 31 W. R. 415 : W. N. (1883), 7—Pearson, J. 739

—— and Lichfield Junction Railway, *In re*, W. N. (1885), 23—Chitty, J. 911

Blackie *v.* Osmaston, 28 Ch. D. 119 : 52 L. T. 6 : 33 W. R. 158—C. A. . 202

Blagrave *v.* Blagrave, 30 June, 1865, Reg. Lib. A. 1328—V.-C. W. . . . 930

Blake *v.* Albion Life Assurance Co., 45 L. J. C. P. 663 : 35 L. T. 269 : 24 W. R. 677—C. P. D. 201

Bla—Buc.

PAGE
Blakesley, *In re*, 23 Ch. D. 549 : 48 L. T. 776—Pearson, J. 698
Blewitt *v.* Proctor, 16 Nov. 1875, Reg. Lib. B. 2872—V.-C. B. . . . 831
Bligh, *In re*, 12 Ch. D. 364 : 49 L. J. Ch. 56 : 27 W. R. 876—Lun. . . 599
—— *v.* O'Connell, 38 L. T. 217 : 26 W. R. 311—V.-C. B. 599
Blyth and Young, *In re*, 13 Ch. D. 416 : 41 L. T. 746 : 28 W. R. 266—C. A. 624
Bolingbroke *v.* Hinde, 25 Ch. D. 795 : 53 L. J. Ch. 704 : 32 W. R. 427—Pearson, J. 656
Bolton *v.* London School Board, 7 Ch. D. 766 : 47 L. J. Ch. 461 : 38 L. T. 277—V.-C. M. 693
Booth *v.* Trail, 12 Q. B. D. 8 : 53 L. J. Q. B. 24 : 49 L. T. 471 : 32 W. R. 122—Q. B. D. 422
Borman *v.* Wilmott, 17 March, 1865, Reg. Lib. A. 513—V.-C. W. . . . 695
Borneman *v.* Wilson, 28 Ch. D. 53 : 51 L. T. 728 : 33 W. R. 140—C. A. . 852
Borough and another *v.* James, W. N. (1884), 32—Mathew, J. 72
Borthwick *v.* Ransford, 28 Ch. D. 79 : 33 W. R. 161—Pearson, J. . . . 457
Boughton, *In re*, Boughton *v.* Boughton, 23 Ch. D. 169 : 48 L. T. 413 : 31 W. R. 517—Fry, J. 863
Bourne *v.* Coulter, 53 L. J. Ch. 699 : 50 L. T. 321 : W. N. (1884), 111—Kay, J. 238
Bousfield *v.* Dove, 27 Ch. D. 687 : 53 L. J. Ch. 1099 : 33 W. R. 197—Pearson, J. 606
Bowen, *In re*, Bennett *v.* Bowen, 20 Ch. D. 538 : 51 L. J. Ch. 825 : 47 L. T. 114—Fry, J. 175
Bower *v.* Hartley, 1 Q. B. D. 652 : 46 L. J. Q. B. 126 : 24 W. R. 941—C. A. 69, 72
Boyse, *In re*, Crofton *v.* Crofton, 20 Ch. D. 760 : 51 L. J. Ch. 660 : 46 L. T. 522 : 30 W. R. 812—Fry, J. 293
Bradford Tramways Co., *In re*, 4 Ch. D. 18 : 46 L. J. Ch. 89 : 35 L. T. 827 : 25 W. R. 88—C. A. 910, 911
—— *v.* Young, 28 Ch. D. 18 : 51 L. T. 550 : 33 W. R. 159—C. A. . 621
Braginton *v.* Yates, W. N. (1880), 150—M. R. 327, 341
Brandram, *In re*, 25 Ch. D. 366 : 53 L. J. Ch. 331 : 49 L. T. 558 : 32 W. R. 180—V.-C. B. 769, 915
Brandreth *v.* Shears, W. N. (1883), 89—Pearson, J. 130
Bristol and North Somerset Railway Co., *In re*, 6 Eq. 448—451 : 16 W. R. 1112—V.-C. G. 919
British and Foreign Contract Co. *v.* Wright, 32 W. R. 413—Q. B. D. . . 799
Brittlebank *v.* Smith, 50 L. T. 491 : 32 W. R. 675 : W. N. (1884), 120—V.-C. B. 6
Broder *v.* Saillard, 2 Ch. D. 692 : 45 L. J. Ch. 414 : 24 W. R. 456—M. R. 341
Brooke *v.* Brooke, 17 Ch. D. 833 : 50 L. J. Ch. 528 : 44 L. T. 512 : 30 W. R. 45 6
—— *v.* Edwards, Edwards, *In re*, 21 Ch. D. 230 : 51 L. J. Ch. 943 : 30 W. R. 686—North, J. 397, 403
Brooks *v.* Jennings, L. R. 1 C. P. 476 : 12 Jur. N. S. 341 : 14 L. T. 19 : 14 W. R. 440—C. P. 192
Brown, *In re*, Ward *v.* Morse, 23 Ch. D. 377 : 52 L. J. Ch. 524 : 49 L. T. 68 : 31 W. R. 936—C. A. 613
—— *v.* Collins, 25 Ch. D. 56—Kay, J. 623
—— *v.* Pearson, 21 Ch. D. 716 : 46 L. T. 411 : 30 W. R. 436—Fry, J. . 246
Browning *v.* Sabin, 5 Ch. D. 511 : 46 L. J. Ch. 728—M. R. 395
Bryant *v.* Bull, 10 Ch. D. 153 : 48 L. J. Ch. 325 : 39 L. T. 470 : 27 W. R. 246—V.-C. B. 719
Buckeridge *v.* Whalley, 6 W. R. 180—V.-C. K. 444

Bue—Cas. PAGE

Buenos Ayres Gas Co. *v.* Wilde, 42 L. T. 657 : 29 W. R. 43 : W. N. (1880), 95—V.-C. M. 402

Burgess, *In re*, Burgess *v.* Bottomley, 25 Ch. D. 243 : 50 L. T. 168 : 32 W. R. 511—C. A. 39

Burns *v.* Walford, W. N. (1884), 31—Mathew, J. 180

Burr *v.* Hubbard, W. N. (1883), 198—Field, J. 790

Burrell, *Ex parte*, 11 Jur. 1062—B. C. 859

Bursill *v.* Tanner, 13 Q. B. D. 691 : 50 L. T. 589 : 32 W. R. 827—Q. B. D. 61, 180

Burstall *v.* Beyfus, 26 Ch. D. 35 : 53 L. J. Ch. 565 : 50 L. T. 543 : 32 W. R. 418—C. A. 129, 245

—— *v.* Bryant, 12 Q. B. D. 103 : 49 L. T. 712 : 32 W. R. 495—Q. B. D. 349, 681

—— *v.* Fearon, 24 Ch. D. 126 : 53 L. J. Ch. 144 : 31 W. R. 581—Pearson, J. 83, 86

Burton *v.* Shaw, 10 L. T. 292—V.-C. W. 76

Bustros *v.* Bustros, 14 Ch. D. 849 : 49 L. J. Ch. 396 : 28 W. R. 595—V.-C. H. 170

—— *v.* —— 30 W. R. 374—C. A. 800

Butcher *v.* Pooler, 24 Ch. D. 273 : 52 L. J. Ch. 930 : 49 L. T. 573 : 32 W. R. 365—C. A. 621

Butler's Wharf Co., *In re*, Anderson *v.* Butler's Wharf Co., 21 Ch. D. 131 : 51 L. J. Ch. 694 : 30 W. R. 723—V. C. H. 454

Butlin *v.* Arnold, 4 April, 1864, Reg. Lib. A. 699 : 1 H. & M. 715—V.-C. W. 462

Bye *v.* Kirby, &c. W. N. (1883), 195—Field, J. 613

Byron's Charity, *In re*, W. N. (1883), 67—Fry, J. 916

C.

Caister *v.* Chapman, W. N. (1884), 31—Mathew, J. 73

Callender *v.* Wallingford, 53 L. J. Q. B. 569 : 32 W. R. 491—Q. B. D. . 73

Calton's Will, *In re*, 25 Ch. D. 240 : 53 L. J. Ch. 329 : 49 L. T. 566 : 32 W. R. 167—Pearson, J. 915

Calvert *v.* Davison, W. N. (1884), 18—Mathew, J. 613

Campbell *v.* Lord Poulett and others, W. N. (1884), 48 801

Campden Charities, *In re*, 24 Ch. D. 213 : 52 L. J. Ch. 780 : 48 L. T. 521 : 31 W. R. 741—Chitty, J. 881

Capes *v.* Brewer, 24 W. R. 40—M. R. 141

Capital Fire Insurance Association, *In re*, 24 Ch. D. 408 : 53 L. J. Ch. 71 : 49 L. T. 697 : 32 W. R. 260—C. A. 863

Cardinall *v.* Cardinall, 25 Ch. D. 772 : 53 L. J. Ch 636 : 32 W. R. 411—Pearson, J. 327

—— *v.* —— W. N. (1884), 6—Pearson, J. 341

Cargill *v.* Bower, 4 Ch. D. 78 : 46 L. J. Ch. 175 : 35 L. T. 621 : 25 W. R. 216—V.-C. M. 197

Caroli *v.* Hirst, 48 L. T. 759 : 31 W. R. 839 : W. N. (1883), 115—Kay, J. 246, 253

Carthew, *In re*, 53 L. J. Ch. 927 : 32 W. R. 876 : W. N. (1884), 141—Chitty, J. 869

—— 27 Ch. D. 485 : 54 L. J. Ch. 134 : 51 L. T. 435 : 32 W. R. 940—C. A. 869

Cash *v.* Parker, Parker, *In re*, 12 Ch. D. 293 : 48 L. J. Ch. 691 : 40 L. T. 878—Fry, J. 718

Cashin *v.* Craddock, 3 Ch. D. 376 : 35 L. T. 452 : 25 W. R. 4—C. A. . 200

Cas—Cop. PAGE

Cass *v.* Fitzgerald, W. N. (1884), 18—Mathew, J. 804
Catton *v.* Bennett, 26 Ch. D. 161 : 53 L. J. Ch. 685 : 50 L. T. 363 : 32 W. R. 485 73
Cawley *v.* Burton, 32 W. R. 33—Q. B. D. 793
Chambers *v.* Green, L. R. 20 Eq. 552 : 44 L. J. Ch. 600—M. R. . . 707
Chapman, *In re*, 10 Q. B. D. 54 : 52 L. J. Q. B. 75 : 47 L. T. 426 : 31 W. R. 266—C. A. 616
—— *v.* Biggs, 11 Q. B. D. 27 : 48 L. T. 704—C. A. 422
—— *v.* Real Property Trust, Limited, 7 Ch. D. 732 : 25 W. R. 587—M. R. 822
Charlewood *v.* Hammer, 28 Sol. J. 710—Chitty, J. 664
Charlton *v.* Charlton, 31 W. R. 237 : W. N. (1882), 183—Fry, J. . . . 619
—— *v.* —— 52 L. J. Ch. 971 : 49 L. T. 267 : 32 W. R. 90 : W. N. (1883), 141—North, J. 861
Charnock, *Ex parte*, 1 W. W. & H. 548 : 3 Jur. 23 859
Chaytor's Settled Estates Act, *In re*, 25 Ch. D. 651 : 53 L. J. Ch. 312 : 50 L. T. 88 : 32 W. R. 517—Pearson, J. 615
Chester *v.* Phillips, Peppitt, *In re*, 4 Ch. D. 230—V.-C. B. 65
Chesterfield *v.* Black, 25 W. R. 409 : W. N. (1877), 65—V.-C. H. . . 197
Child, *Ex parte*, 20 Ch. D. 126 : 51 L. J. Ch. 494 : 46 L. T. 118 : 30 W. R. 282—C. A. 281
Claparede & Co. *v.* Commercial Union Association, 32 W. R. 151—Q. B. D. 202
Clarke *v.* Bennett, 32 W. R. 550—Q. B. D. 790
Clinton, *In re*, Jackson *v.* Slaney, W. N. (1882), 176—Chitty, J. . . . 358
Clover *v.* Adams, 6 Q. B. D. 622—Q. B. D. 862
—— *v.* Wilts and Western Benefit Building Society, 53 L. J. Ch. 622 : 50 L. T. 382 : 32 W. R. 895 : W. N. (1884), 110—V.-C. B. 175
Clowes *v.* Hilliard, 4 Ch. D. 413 : 46 L. J. Ch. 271 : 25 W. R. 224—M. R. 66
Clutton *v.* Lee, 7 Ch. D. 541 : 45 L. J. Ch. 684 : 24 W. R. 607—M. R. . 139
Cockshott *v.* London General Cab Co., 47 L. J. Ch. 126 : 26 W. R. 31 : W. N. (1877), 214—Fry, J. 335
Colebourne *v.* Colebourne, 1 Ch. D. 690 : 45 L. J. Ch. 749 : 24 W. R. 235 —V.-C. H. 693, 718
Coles *v.* Civil Service Supply Association, 26 Ch. D. 529 : 53 L. J. Ch. 638 : 50 L. T. 114 : 32 W. R. 407—Kay, J. 73, 327
Compagnie du Pacifique *v.* Guano Co., W. N. (1883), 166—Field, J. . . 790
Compagnie Financiere du Pacifique *v.* Peruvian Guano Co., 28 Sol. J. 410. 792
Compagnie Financiere, &c. *v.* Peruvian Guano Co., 11 Q. B. D. 55 : 52 L. J. Q. B. 181 : 48 L. T. 22 : 31 W. R. 395—C. A. 803
Compagnie du Senegal *v.* Smith & Co., 53 L. J. Ch. 166 : 49 L. T. 527 : 32 W. R. 111 : W. N. (1883), 180—Kay, J. 850
Compton, *In re*, Norton *v.* Compton, 27 Ch. D. 392 : 51 L. T. 277 : 33 W. R. 160—C. A. 628
—— *v.* Preston, 21 Ch. D. 138 : 51 L. J. Ch. 680 : 47 L. T. 122 : 30 W. R. 563—Fry, J. 130, 237
Cook *v.* Dey, 2 Ch. D. 218 : 45 L. J. Ch. 611 : 24 W. R. 362—V.-C. H. . 141
—— *v.* Heynes, W. N. (1884), 75—Kay, J. 246
Cooke *v.* Wilby, 25 Ch. D. 769 : 53 L. J. Ch. 592 : 50 L. T. 152 : 32 W. R. 379—Chitty, J. 6
Cookes *v.* Cookes, 2 De G. J. & S. 526—L. J.J. 720
Cooper *v.* Moon, W. N. (1884), 78—Field, J. 6
Coore, *In re*, W. N. (1883), 169—Chitty, J. 579, 937
Copcutt *v.* Great Western Railway Co., L. R. 2 C. P. 465 : 36 L. J. C. P. 240 : 16 L. T. 384 : 15 W. R. 796—C. P. 347

Cop—Dav. PAGE

Copley *v.* Jackson, W. N. (1884), 39—Mathew, J. 222
—— *v.* —— W. N. (1884), 94—Field, J. 613
Copp, *In re*, 32 W. R. 25—Kay, J. 860
Corbett *v.* Lewin, W. N. (1884), 62—Field, J. 428
Corporation of Huddersfield and Jacomb, *In re*, L. R. 10 Ch. 92 : 44 L. J. Ch. 96 : 31 L. T. 466 : 23 W. R. 100—L. J. J. 623
Corrie *v.* Allen, W. N. (1883), 35—Fry, J. 69, 72, 73
—— *v.* —— 48 L. T. 464 : W. N. (1883), 65—C. A. 69, 72, 73
Coulburn *v.* Carshaw, 32 W. R. 33—Q. B. D. 141, 142
Court *v.* Perrin, Perrin, *In re*, 31 Jan., 1876, Reg. Lib. B. 127—M. R . . 344
Cowbridge Railway Co., *In re*, L. R. 5 Eq. 413 : 37 L. J. Ch. 306 : 18 L. T. 102 : 16 W. R. 506—V.-C. W. 386, 415
Cox *v.* James, 19 Ch. D. 55 : 51 L. J. Ch. 184 : 45 L. T. 471 : 30 W. R. 228—Chitty, J. 67
Crane *v.* Jullion, 2 Ch. D. 220 : 24 W. R. 691—V.-C. H. 141
—— *v.* Loftus, 24 W. R. 93—V.-C. H. 85
Crawford *v.* Chorley, W. N. (1883), 198—Field, J. 265
Credito Gerundeuse, Limited *v.* Van Weede, 12 Q. B. D. 171 : 53 L. J. Q. B. 142 : 32 W. R. 414—Q. B. D. 678
Cremetti *v.* Crom, 4 Q. B. D. 225 : 48 L. J. Q. B. 337 : 27 W. R. 411—Q. B. D. 620
Crick *v.* Hewlett, 27 Ch. D. 354 : 53 L. J. Ch. 1110 : 51 L. T. 428 : 32 W. R. 922—Pearson, J. 325
Croft *v.* Middleton, 9 Hare, App. 75—V.-C. P. 288
Crofton *v.* Crofton, Boyse, *In re*, 20 Ch. D. 760 : 51 L. J. Ch. 660 : 46 L. T. 522 : 30 W. R. 812—Fry, J. 293
Cropper *v.* Smith, 24 Ch. D. 305 : 53 L. J. Ch. 170 : 49 L. T. 548 : 32 W. R. 212—C. A. 621, 623
Crosland *v.* Routledge and another, W. N. (1883), 228—Field, J. . 184, 225
Cruikshank *v.* Floating Baths Co., 1 C. P. D. 260 : 45 L. J. C. P. 684 : 34 L. T. 733 : 24 W. R. 644—C. P. D. 925
Curtius *v.* Caledonian Insurance Co., 19 Ch. D. 534 : 51 L. J. Ch. 80 : 45 L. T. 662 : 30 W. R. 125—C. A. 64

D.

Dallow *v.* Garrold, 13 Q. B. D. 543 : 53 L. J. Q. B. 527 : 33 W. R. 123—Q. B. D. 861
—— *v.* —— 54 L. J. Q. B. 76 : 33 W. R. 219 : W. N. (1884), 231—C. A. 861
Danford *v.* McAnulty, 6 Q. B. D. 645 : 50 L. J. C. P. 294 : 44 L. T. 372 : 29 W. R. 437—C. A. 234
—— *v.* —— 8 App. Cas. 456 : 52 L. J. Q. B. 652 : 49 L. T. 207 : 31 W. R. 817—H. L. 234
Darcy *v.* Whittaker, 24 W. R. 109 : W. N. (1876), 17—M. R. 85
Daubney *v.* Shuttleworth, 1 Exch. D. 53 : 45 L. J. Ex. 177 : 34 L. T. 357 : 24 W. R. 321—Exch. D. 24, 318, 687
Daubuz *v.* Lavington, 13 Q. B. D. 347 : 53 L. J. Q. B. 283 : 51 L. T. 206 : 32 W. R. 772—Q. B. D. 180
David *v.* Howe, 27 Ch. D. 533 : 53 L. J. Ch. 1053 : 50 L. T. 753 ; 32 W. R. 844—V.-C. B. 825
Davidson *v.* Illidge, Illidge, *In re*, 27 Ch. D. 478 : 53 L. J. Ch. 991 : 51 L. T. 523 : 33 W. R. 18—C. A. 366

Dav—Ear.

PAGE

Davies *v.* Garland, 1 Q. B. D. 250 : 45 L. J. Q. B. 137 : 33 L. T. 727 : 24 W. R. 252—Q. B. D. 132

—— *v.* Smith, 54 L. J. Ch. 278 : 52 L. T. 19 (*sub nom.* Smith *v.* Davies) : 33 W. R. 211 : W. N. (1884), 242—Chitty, J. 176

Davis *v.* Godbehere, 4 Exch. D. 215 : 48 L. J. Exch. 440 : 46 L. T. 358 : 27 W. R. 485—C. A. 347, 349

—— *v.* James, 26 Ch. D. 778 : 53 L. J. Ch. 523 : 50 L. T. 115 : 32 W. R. 406—Kay, J. 201

—— *v.* Morris, 10 Q. B. D. 436 : 52 L. J. Q. B. 401 : 31 W. R. 749—Q. B. D. 32

—— *v.* Spence, 1 C. P. D. 719 : 25 W. R. 229—C. P. D. 181

Davy *v.* Garrett, 7 Ch. D. 473 : 47 L. J. Ch. 218 : 38 L. T. 77 : 26 W. R. 225—C. A. 200

Dawson *v.* Beeson, 22 Ch. D. 504 : 52 L. J. Ch. 563 : 48 L. T. 407 ; 31 W. R. 537—C. A. 24

—— *v.* Thomson, 28 March, 1865, Reg. Lib. A. 540—V.-C. W. . . 696

Day *v.* Batty, 21 Ch. D. 830—Kay, J. 465

—— *v.* Whittaker, 6 Ch. D. 734 : 46 L. J. Ch. 680 : 36 L. T. 683 : 25 W. R. 767—V.-C. H. 616

Delany *v.* Delany, 27 Sol. J. 418—Chitty, J. 91

De la Warr (Earl of) *v.* Cavendish, 22 Dec., 1865 : Reg. Lib. A. 2421—V.-C. W. 135, 198

De Leon *v.* Hubbard, W. N. (1883), 197—Field, J. 6

Dendy, *In re*, 21 Beav. 565—M. R. 871

Dennis *v.* Crompton, W. N. (1882), 121—V.-C. B. 130

Dent *v.* Sovereign Life Assurance Co., 27 W. R. 379 : W. N. (1879), 33—V.-C. B. 328

De St. Martin *v.* Davis, W. N. (1884), 86—Field, J. 838

Deykin *v.* Coleman, 36 L. T. 195 : 25 W. R. 294—C. A. . . 24, 318, 687

Dickin *v.* Dickin, 30 W. R. 887 : W. N. (1882), 113—Chitty, J. 572, 573, 996

Dier *v.* Martin, Martin, *In re*, W. N. (1884), 112—Kay, J. 606

Docwra, *In re*, W. N. (1884), 232—C. A. 466

Dodds *v.* Tuke, 25 Ch. D. 617 : 53 L. J. Ch. 598 : 50 L. T. 320 : 32 W. R. 424—V.-C. B. 261, 614

Doodson *v.* Turner, Knowles, *In re*, 52 L. J. Ch. 685 : 48 L. T. 760 : W. N. (1883), 53—Kay, J. 396

Dove, *In re*, Bousfield *v.* Dove, 27 Ch. D. 687 : 53 L. J. Ch. 1099 : 33 W. R. 197—Pearson, J. 606

Dudley, *In re*, 12 Q. B. D. 44 : 53 L. J. Q. B. 16 : 49 L. T. 437 : 32 W. R. 264—C. A. 858

Duke of Rutland's Settlement, *In re*, 49 L. T. 196 : 31 W. R. 947 : W. N. (1883), 140—Chitty, J. 914

Dyer *v.* Painter, W. N. (1881), 105—V.-C. B. 85

Dyke *v.* Cannell, 11 Q. B. D. 180 : 49 L. T. 174 : 31 W. R. 747—Q. B. D. 345

Dymond *v.* Croft, 3 Ch. D. 512 : 45 L. J. Ch. 604 : 34 L. T. 786 : 24 W. R. 842—C. A. 141, 142, 170

—— *v.* —— 3 Ch. D. 512 : 45 L. J. Ch. 612 : 24 W. R. 842—M. R. 318, 325, 330

E.

Eager, *In re*, Eager *v.* Johnstone, 22 Ch. D. 86 : 52 L. J. Ch. 56 : 47 L. T. 685 : 31 W. R. 33—C. A. 144

Earle & Webster's Contract, *In re*, 24 Ch. D. 144 : 52 L. J. Ch. 828 : 48 L. T. 961 : 31 W. R. 887—Pearson, J. 1010

Eas—For. PAGE

Eastwood *v.* Clark, Gadd, *In re*, 23 Ch. D. 134 : 52 L. J. Ch. 396 : 48 L. T. 395 : 31 W. R. 417—C. A. 525
Eaton *v.* Storer, 22 Ch. D. 91 : 48 L. T. 204 : 31 W. R. 488—C. A. . . 240
Ebersley's Hotel Co., *In re*, W. N. (1884), 252—Pearson, J. 822
Ebrard *v.* Gassier, 28 Ch. D. 232 : 33 W. R. 287 : W. N. (1885), 1—C. A. . 838
Eckersley *v.* Eckersley, 28 Sol. J. 533—Pearson, J. 358
Edell *v.* Cave, 54 L. J. Ch. 308 (*sub nom.* E. *v.* C.) : 51 L. T. 621 : 33 W. R. 208—V.-C. B. 163
Eden *v.* Weardale Iron and Coal Co., 51 L. T. 726 : 33 W. R. 241 : W. N. (1884), 232—C. A. 73, 237
Edgington *v.* Fitzmaurice, 32 W. R. 848—Denman, J. 615
Edwards, *In re*, Brooke *v.* Edwards, 21 Ch. D. 230 : 51 L. J. Ch. 943 : 30 W. R. 686—North, J. 397, 403
—— *v.* Edwards, 2 Ch. D. 291 : 45 L. J. Ch. 391 : 34 L. T. 472 : 24 W. R. 713—C. A. 719
Egerton *v.* Anderson, W. N. (1884), 95—Field, J. 181, 222
Egham Burial Board, *In re*, 3 Jur. N. S. 956—V.-C. W. 881
Elderton, *In re*, 25 Ch. D. 220 : 53 L. J. Ch. 258 : 50 L. T. 26 : 32 W. R. 227—Pearson, J. 978
Ellis *v.* Fleming, 1 C. P. D. 237 : 45 L. J. C. P. 512—C. P. D. . . . 707
—— *v.* Munson, 35 L. T. 585 : W. N. (1876), 253—C. A. 192
Elsom, *In re*, Thomas *v.* Elsom, 6 Ch. D. 346—C. A. 454
Emeny *v.* Sandes, 14 Q. B. D. 6 : 54 L. J. Q. B. 82 : 51 L. T. 641 : 33 W. R. 187—C. A. 613
Emma Silver Mining Co. *v.* Grant, 11 Ch. D. 918 : 40 L. T. 804—M. R. . 328
English Joint Stock Bank, Limited, *In re*, 2 July, 1870, Rolls Lib.—M. R. 810
Evans, *Ex parte*, 13 Ch. D. 252 : 49 L. J. Bk. 7 : 41 L. T. 565 : 28 W. R. 858—C. A. 415, 719
—— *v.* Edwards, W. N. (1883), 194—Field, J. 347
Evelyn *v.* Evelyn, 13 Ch. D. 138 : 49 L. J. Ch. 18 : 41 L. T. 499 : 28 W. R. 73—V.-C. M. 248
Eyre *v.* Cox, 24 W. R. 317—M. R. 96
—— *v.* Moreing, W. N. (1884), 58—Field, J. 66

F.

Farrer *v.* Lacy Hartland, 25 Ch. D. 636 : 53 L. J. Ch. 569 : 50 L. T. 121 : 32 W. R. 384—North, J. 656
—— *v.* —— 33 W. R. 265—C. A. 626
Farrow *v.* Austin, 18 Ch. D. 58 : 45 L. T. 227 : 30 W. R. 650—C. A. . . 613
Fenton *v.* Cumberlege, 52 L. J. Ch. 756 : 48 L. T. 776 : W. N. (1883), 116—Pearson, J. 442
Field, *In re*, W. N. (1877), 244—M. R. 869, 870
—— *v.* Field, W. N. (1877), 98—V.-C. M. 822
Finlay & Co. *v.* Scott & Co., W. N. (1884), 8—Pearson, J. 69
Flower *v.* Todd, W. N. (1884), 47—Field, J. 73
Ford *v.* Taylor, 3 C. P. D. 21 : 47 L. J. C. P. 116 : 37 L. T. 431 : 26 W. R. 170 347
Fore Street Warehouses Co. *v.* Durrant, 10 Q. B. D. 471 : 52 L. J. Q. B. 287 : 48 L. T. 531 : 31 W. R. 765—Q. B. D. 32
Forrest *v.* Davis, 26 W. R. 534 : W. N. (1878), 88—Q. B. D. 24
—— *v.* Shore, 32 W. R. 356—V.-C. B. 660

For—Gra.

PAGE
Forster *v.* Davis, Norden *v.* McRae, McRae, *In re*, 25 Ch. D. 16 : 53 L. J. Ch. 1132 : 49 L. T. 544 : 32 W. R. 304—C. A. 462
Fortescue *v.* Fortescue, 34 L. T. 847 : 24 W. R. 945—V.-C. H. . . . 801
Foster *v.* Usherwood, 3 Exch. D. 1 : 47 L. J. Exch. 30 : 37 L. T. 389 : 26 W. R. 91—C. A. 824
Fowler *v.* Barstow, 20 Ch. D. 240 : 51 L. J. Ch. 103 : 45 L. T. 603 : 30 W. R. 112—C. A. 146, 151
Fox *v.* Bearblock, 45 L. T. 469 : 30 W. R. 342 : W. N. (1882), 9—C. A. . 605
—— *v.* Earl Amherst, 9 June, 1866—Reg. Lib. A., 1599—V.-C. S. . . 528
Fraser *v.* Cooper, Hall & Co., 21 Ch. D. 718 : 51 L. J. Ch. 575 : 46 L. T. 371 : 30 W. R. 654—Fry, J. 68
—— *v.* —— 23 Ch. D. 685 : 52 L. J. Ch. 684 : 48 L. T. 754 : 31 W. R. 714—V.-C. B. 237
Freason *v.* Lowe, 26 W. R. 138 : W. N. (1877), 245—M. R. . . 248, 325
Freston, *In re*, 11 Q. B. D. 545 : 52 L. J. Q. B. 545 : 49 L. T. 290 : 31 W. R. 804—C. A. 402
Frodsham *v.* Frodsham, 15 Ch. D. 317 : 50 L. J. Ch. 233—C. A. . . . 897
Fryer *v.* Wiseman, 45 L. J. Ch. 199 : 33 L. T. 779 : 24 W. R. 205—V.-C. H. 277, 285

G.

G. *v.* H., W. N. (1883), 233—Field, J. 156, 228
Gadd, *In re*, Eastwood *v.* Clark, 23 Ch. D. 134 : 52 L. J. Ch. 396 : 48 L. T. 395 : 31 W. R. 417—C. A. 525
Garnett, *In re*, Gandy *v.* Macaulay, 50 L. T. 172 : 32 W. R. 474—V.-C. B. 457
Gartside, *In re*, 1 W. R. 196—V.-C. W. 895
Gates *v.* Buckland, 14 March, 1865, Reg. Lib. A., 480—V.-C. S. . . 76
Gath *v.* Howarth, W. N. (1884), 99—Field, J. 613
Gatti *v.* Webster, 12 Ch. D. 771 : 48 L. J. Ch. 763 : 41 L. T. 18 : 27 W. R. 935—V.-C. B. 175
General Share and Trust Co. *v.* Watley Brick and Pottery Co., 20 Ch. D. 130 : 51 L. J. Ch. 464 : 46 L. T. 70 : 30 W. R. 695—C. A. . . . 629
Gibbings *v.* Strong, 26 Ch. D. 66 : 50 L. T. 578 : 32 W. R. 757—C. A. . 253
Gibbons' Trust, *In re*, 45 L. T. 756 : 30 W. R. 287 : W. N. (1882), 12—Kay, J. 895
Gibson *v.* Sykes, 28 Sol. J. 533—Q. B. D. 796
Gilbert, *In re*, Gilbert *v.* Hudleston, 52 L. T. 8 : W. N. (1885), 21—C. A. . 621
Giles *v.* Hamer, Hamer *v.* Giles, 11 Ch. D. 942 : 48 L. J. Ch. 508 : 41 L. T. 270 : 27 W. R. 834—M. R. 860, 862
Gill *v.* Woodfin, 25 Ch. D. 707 : 53 L. J. Ch. 617 : 50 L. T. 490 : 32 W. R. 393—C. A. 222
Girvin *v.* Grepe, 13 Ch. D. 174 : 49 L. J. Ch. 63 : 41 L. T. 522 : 28 W. R. 123—M. R. 181
Glossop *v.* Heston, &c., Local Board, 12 Ch. D. 102 : 49 L. J. Ch. 89 : 40 L. T. 736 : 28 W. R. 111—C. A. 706
Gloucestershire Banking Co. *v.* Phillips, 12 Q. B. D. 533 : 53 L. J. Q. B. 493 : 50 L. T. 360 : 32 W. R. 522—Q. B. D. 62, 73
Gordon *v.* Jennings, 9 Q. B. D. 45 : 51 L. J. Q. B. 417 : 46 L. T. 534 : 30 W. R. 704—Q. B. D. 422
Gosnell *v.* Gosnell, 31 May, 1870, Rolls Lib.—M. R. 866
Gough *v.* Heatley, 49 L. T. 772 : 32 W. R. 385 : W. N. (1884), 14—Pearson, J. 246
Grant *v.* Easton, 13 Q. B. D. 302 : 53 L. J. Q. B. 68 : 49 L. T. 645 : 32 W. R. 239—C. A. 180

Gra—Har. PAGE

Graves *v.* Terry, 9 Q. B. D. 170 : 51 L. J. Q. B. 464 : 30 W. R. 748—Q. B. D. 246, 253

Gray *v.* Bell, 46 L. T. 521 : 30 W. R. 606—Fry, J. 50

—— *v.* Webb, 21 Ch. D. 802 : 51 L. J. Ch. 815 : 46 L. T. 913 : 31 W. R. 8—Kay, J. 201, 237, 238

Great Australian Gold Mining Co. *v.* Martin, 5 Ch. D. 1 : 46 L. J. Ch. 289 : 35 L. T. 874 : 25 W. R. 246—C. A. 144, 151

Green, *In re*, Green *v.* Green, 26 Ch. D. 16 : 54 L. J. Ch. 54 : 50 L. T. 513 : 32 W. R. 373—C. A. 861

—— *v.* Bennett, 54 L. J. Ch. 85 : 50 L. T. 706 : 32 W. R. 848—Chitty, J. 324

Greer *v.* Young, 24 Ch. D. 545 : 52 L. J. Ch. 915 : 49 L. T. 224 : 31 W. R. 930—C. A. 861

Griffiths, *In re*, Griffiths *v.* Lewis, 26 Ch. D. 465 : 53 L. J. Ch. 1003 : 51 L. T. 278—C. A. 613

Grumbrecht *v.* Parry, 49 L. T. 590 : 32 W. R. 203—Q. B. D. 793

—— *v.* —— 32 W. R. 558—C. A. 793

H.

Hackney Charities, *In re*, 10 Jur. N. S. 941 : 4 N. R. 530 : 12 W. R. 1129—M. R. 879

—— *In re*, 34 L. J. Ch. 160 : 11 L. T. 758 : 11 Jur. N. S. 126 : 13 W. R. 398—C. A. 879

Haddan's Patent, *In re*, 54 L. J. Ch. 126 : 51 L. T. 190 : 33 W. R. 96—Kay, J. 790

Hall *v.* Brand, 12 Q. B. D. 39 : 53 L. J. Q. B. 19 : 49 L. T. 492 : 32 W. R. 133—C. A. 303

—— *v.* Liardet, W. N. (1883), 165—Field, J. 790

—— *v.* —— (No. 2), W. N. (1883), 175—Field, J. 790

—— *v.* Scotson, 23 L. J. Exch. 85 : 9 Exch. 238 : 2 W. R. 103—Exch. . 178

Hamburger *v.* Poetting, 47 L. T. 249 : 30 W. R. 769—V.-C. B. . . 838

Hamer *v.* Giles, Giles *v.* Hamer, 11 Ch. D. 942 : 48 L. J. Ch. 508 : 41 L. T. 270 : 27 W. R. 834—M. R. 860, 862

Hamilton, Fraser & Co. *v.* Staley, Radford & Co., 28 Sol. J. 478—Q. B. D. 856

Hampden *v.* Wallis, 26 Ch. D. 746 : 54 L. J. Ch. 83 : 50 L. T. 515 : 32 W. R. 808—C. A. 17, 393, 795, 797, 800

—— *v.* —— 27 Ch. D. 251 : 51 L. T. 357 : 32 W. R. 977—Chitty, J. 745

Hardwick, *In re*, 12 Q. B. D. 148 : 53 L. J. Q. B. 64 : 49 L. T. 584 : 32 W. R. 191—C. A. 860

Hare *v.* Hare, W. N. (1876), 44—M. R. 855

Harlock *v.* Ashberry, 28 Sol. J. 26—North, J. 4

—— *v.* —— 19 Ch. D. 539 : 51 L. J. Ch. 394 : 46 L. T. 356 : 30 W. R. 327—C. A. 130

Harris's Settled Estates, *In re*, 28 Ch. D. 171 : 54 L. J. Ch. 208 : 51 L. T. 855 : 33 W. R. 393—Pearson, J. 988

Harris *v.* Fleming, 30 W. R. 555—C. A. 626

—— *v.* Jenkins, 22 Ch. 481 : 52 L. J. Ch. 437 : 47 L. T. 570 : 31 W. R. 137—Fry, J. 201

Harrison *v.* Cornwall Mineral Ry. Co., 53 L. J. Ch. 596 : 50 L. T. 452 : 32 W. R. 748—Kay, J. 861

—— *v.* Leutner, 16 Ch. D. 559, 50 L. J. Ch. 264 : 44 L. T. 331 : 29 W. R. 393—M. R. 256

Har—Hul.

PAGE

Harrison *v.* Richards, L. R. 1 Ch. 473 : 12 Jur. N. S. 871 : 35 L. J. Ch. 677 : 14 W. R. 823—L. JJ. 525

Harrop's Trusts, *In re*, 24 Ch. D. 717 : 53 L. J. Ch. 137 : 48 L. T. 937—Pearson, J. 1008

Harvey's Settled Estates, *In re*, 21 Ch. D. 123 : 30 W. R. 697 —V.-C. H. . 983

Harvey, *In re*, Wright *v.* Woods, 26 Ch. D. 179 : 53 L. J. Ch. 544 : 50 L. T. 554 : 32 W. R. 765—Chitty, J. 614

—— *v.* Croydon Union Sanitary Authority, 26 Ch. D. 249 : 53 L. J. Ch. 707 : 50 L. T. 291 : 32 W. R. 389—C. A. 357

—— *v.* Harvey, 26 Ch. D. 644 : 51 L. T. 508 : 33 W. R. 76—Chitty, J. 396

—— *v.* —— W. N. (1884), 232—C. A. 793, 794

Hasluck *v.* Hasluck, 19 March, 1861, Reg. Lib. B. 1898—V.-C. W. . . 76

Hatton *v.* Haywood, L. R. 9 Ch. 229 : 43 L. J. Ch. 372 : 30 L. T. 279 : 22 W. R. 356—L. C. & L. JJ. 386, 415

Haynes *v.* Barton, 18 Jan. 1868, at Chambers—M. R. 866

Heard *v.* Borgwardt, W. N. (1883), 173—Field, J. 66

Heatley *v.* Newton, 19 Ch. D. 326 : 51 L. J. Ch. 225 : 45 L. T. 455 : 30 W. R. 72—C. A. 454

Heinrich *v.* Sutton, L. R. 6 Ch. 865 : 19 W. R. 1075—L.JJ. 861

Henderson *v.* Ripley, W. N. (1884), 85—Field, J. 790

Heugh *v.* Chamberlain, 25 W. R. 742 : W. N. (1877), 128—M. R. . . 201

Higginbottom *v.* Aynsley, 3 Ch. D. 288 : 24 W. R. 782—V.-C. H. . . 248

Hill *v.* Hart-Davis, 26 Ch. D. 470 : 53 L. J. Ch. 1012 : 51 L. T. 279—C. A. 276, 801

Hillman *v.* Mayhew, 1 Exch. D. 132 : 45 L. J. Exch. 334 : 34 L. T. 256 : 24 W. R. 435—Exch. D. 822

Hirst *v.* Proctor, W. N. (1882), 12—Kay, J. 4

Hobson *v.* Monk and another, W. N. (1884), 17—Mathew, J. 180

—— *v.* ——, W. N. (1884), 8—Pearson, J. 222

Hodges *v.* Hodges, 20 Ch. D. 749 : 51 L. J. Ch. 549 : 46 L. T. 366 : 30 W. R. 483—Fry, J. 998

Holloway *v.* Cheston, 19 Ch. D. 516 : 51 L. J. 208 : 30 W. R. 120—Chitty, J. 453, 454

Holroyde *v.* Garnett, 20 Ch. D. 532 ; 51 L. J. Ch. 663 : 46 L. T. 801 : 30 W. R. 604—V.-C. B. 396

Hooper *v.* Campbell, 10 July, 1865, Reg. Lib. A. 1308—V.-C. S. . . 694

—— *v.* Smith, Smith, *In re*, 26 Ch. D. 614 : 53 L. J. Ch. 1149 : 33 W. R. 18—C. A. 623

Hopcroft *v.* Moreton, Moreton, *In re*, 18 July, 1870 : Rolls. Lib.—M. R. . 509

Hopewell *v.* Barnes, 1 Ch. D. 630 ; 33 L. T. 777 : 24 W. R. 629—V.-C. M. 418

Hopkins, *In re*, Williams *v.* Hopkins, 18 Ch. D. 370 ; 52 L. J. Ch. 736 : 48 L. T. 513 : 31 W. R. 495—Fry, J. 482

Hopton *v.* Robinson, W. N. (1884), 77—Field, J. 182

Horwell *v.* London General Omnibus Co., 2 Ex. D. 365 : 46 L. J. Exch. 700 : 36 L. T. 637 : 25 W. R. 610—C. A. 72

Houghton *v.* Sevenoaks Estate Co., 33 W. R. 341 : W. N. (1884), 243—Pearson, J. 657

Huddersfield Corporation and Jacomb, *In re*, L. R. 10 Ch. 92 : 44 L. J. Ch. 96 : 31 L. T. 466 : 23 W. R. 100—L.JJ. 623

Hudson *v.* Osgerby, 50 L. T. 323 : 32 W. R. 566 : W. N. (1884), 83—Pearson, J. 615

Hull, Barnsley, and West Riding Junction Railway and Dock Act, *In re*, 28 Sol. J. 165—Chitty, J. 903

Hum—Jon. PAGE

Humphreys *v.* Edwards, 45 L. J. Ch. 112 : W. N. (1875), 208—M. R. . 820, 822
Hunt *v.* Brown, 9 Feb. 1864, Reg. Lib. A. 195—M. R. 694
—— *v.* Chambers, Martin, *In re*, 20 Ch. D. 365 : 51 L. J. Ch. 683 ; 46 L. T. 399 : 30 W. R. 527 327
—— *v.* Fensham, 28 Sol. J. 253—Pearson, J. 130
Hunter *v.* Myatt, 28 Ch. D. 181—Pearson, J. 656
Hutchinson, *In re*, Hutchinson *v.* Norwood, 50 L. T. 486 : 32 W. R. 392—C. A. 453
—— *v.* Ward, Smith, *In re*, 6 Ch. D. 692 : 36 L. T. 178 : 25 W. R. 452—V.-C. H. 258, 462
Hutchison *v.* Colorado United Mining Co., W. N. (1884), 40—Mathew, J. 69
Hyde *v.* Warden, 1 Exch. D. 309 : 25 W. R. 65—C. A. 720

I.

Illidge, *In re*, Davidson *v.* Illidge, 27 Ch. D. 478 : 53 L. J. Ch. 991 : 51 L. T. 523 : 33 W. R. 18—C. A. 366
Inderwick, *In re*, 25 Ch. D. 279 : 54 L. J. Ch. 72 : 50 L. T. 221 : 32 W. R. 541—C. A. 873
Indian, Kingston and Sandhurst Gold Mining Co., *In re*, 22 Ch. D. 83 : 52 L. J. Ch. 31 : 48 L. T. 52 : 31 W. R. 34—C. A. 626
Ingram *v.* Little, 11 Q. B. D. 251 : 31 W. R. 858—Q. B. D. 790
Ipswich Gas Co. *v.* Norman, 7 B. & S. 847 : 15 L. T. 290—B. C. . . 347
Irlam *v.* Irlam, 2 Ch. D. 608 : 24 W. R. 292—V.-C. H. . . . 258, 462
Irons *v.* Blyton, 21 Nov. 1866, Reg. Lib. A. 2520—M. R. 568
Ivory *v.* Cruickshank, W. N. (1875), 249—Quain, J. 172, 250

J.

Jackson *v.* Litchfield, 8 Q. B. D. 474 : 51 L. J. Q. B. 327 : 46 L. T. 518 : 30 W. R. 531—C. A. 32
—— *v.* Slaney, Clinton, *In re*, W. N. (1882), 176—Chitty, J. . . . 358
—— *v.* Smith, 53 L. J. Ch. 972 : 51 L. T. 72 : W. N. (1884), 151—Kay, J. 861
Jacobs *v.* Brett, L. R. 20 Eq. 1 : 44 L. J. Ch. 377 : 32 L. T. 522 : 23 W. R. 556—M. R. 707
—— *v.* Great Western Railway Co., W. N. (1884), 33—Mathew, J. . 793
James *v.* Barraud, 49 L. T. 300 : 31 W. R. 786—Q. B. D. 61
—— *v.* Crow, 7 Ch. D. 410 : 47 L. J. Ch. 200 : 37 L. T. 749 : 26 W. R. 236—Fry, J. 326, 335
Jarmain *v.* Chatterton, 20 Ch. D. 493 : 51 L. J. Ch. 471 : 30 W. R. 461—C. A. 402
Jennings, *In re*, Stock *v.* Jennings, 28 Sol. J. 477—Chitty, J. 457
Jesus College, Cambridge, *Ex parte*, 50 L. T. 583 : W. N. (1884), 37—Kay, J. 914
Jiminez & Sons *v.* Owen, W. N. (1883), 232—Field, J. 19
Johnston *v.* Johnston, 53 L. J. Ch. 1014 : 51 L. T. 537 : 32 W. R. 1016—Pearson, J. 245
—— *v.* —— 33 W. R. 239—C. A. 245
Jones *v.* Curling, 13 Q. B. D. 262 : 53 L. J. Q. B. 373 : 50 L. T. 349 : 32 W. R. 651—C. A. 613
—— *v.* Elderton, W. N. (1884), 39—Mathew, J. 69
—— *v.* London Road Car Co., W. N. (1883), 196—Field, J. . . . 790

Jon—Law. PAGE

Jones *v.* Monte Video Gas Co., 5 Q. B. D. 556 : 49 L. J. Q. B. 627 : 42 L. T. 639 : 28 W. R. 758—C. A. 803
Jubb *v.* Bibbs & Hill, W. N. (1883), 208—Field, J. 791
Judkins, *In re*, W. N. (1880), 198—M. R. 463

K.

Keith *v.* Butcher, 25 Ch. D. 750 : 53 L. J. Ch. 640 : 50 L. T. 203 : 32 W. R. 378—Kay, J. 66
Kemp's Settled Estates, *In re*, 24 Ch. D. 485 : 52 L. J. Ch. 950 : 49 L. T. 231 : 31 W. R. 930—C. A. 1008
Kendrick *v.* Roberts, 46 L. T. 59 : 30 W. R. 365 : W. N. (1882), 23—Kay, J. 130
Kettlewell *v.* Barstow, L. R. 7 Ch. 686 : 41 L. J. Ch. 718 : 27 L. T. 258 : 20 W. R. 917—L. JJ. 805
—— *v.* Watson, 52 L. J. Ch. 818 : 48 L. T. 840 : 31 W. R. 709—C. A. 624
Kirk *v.* Todd, 21 Ch. D. 484 : 52 L. J. Ch. 224 : 47 L. T. 676 : 31 W. R. 69—C. A. 87
Kitcat *v.* Sharp, 52 L. J. Ch. 134 : 48 L. T. 64 : 31 W. R. 227 : W. N. (1882), 183—Fry, J. 402
Knatchbull's Settled Estate, *In re*, 27 Ch. D. 349 : 54 L. J. Ch. 154 : 51 L. T. 695 : 33 W. R. 10—Pearson, J. 1003
Knatchbull *v.* Fowle, 1 Ch. D. 604 : 24 W. R. 629—M. R. 277, 285
Knight's Trusts, *In re*, 26 Ch. D. 82 : 53 L. J. Ch. 223 : 50 L. T. 550 : 32 W. R. 417—C. A. 613, 621
Knight, *In re*, Knight *v* Gardner, 25 Ch. D. 297 : 53 L. J. Ch. 183 : 49 L. T. 545 : 32 W. R. 469—C. A. 281, 442
—— —— *v.* —— W. N. (1883), 162—V.-C. B. . . 395
—— *v.* Abbott, Page & Co., 10 Q. B. D. 11 : 52 L. J. Q. B. 131 : 31 W. R. 505—Q. B. D. 347
Knowles, *In re*, Doodson *v.* Turner, 52 L. J. Ch. 685 : 48 L. T. 760 : W. N. (1883), 53—Kay, J. 396

L.

Ladd *v.* Puleston, 52 L. J. Ch. 816 : 31 W. R. 539 : W. N. (1883), 72—Fry, J. 822
—— *v.* —— 52 L. J. Ch. 976 : 48 L. T. 949 : 31 W. R. 802—C. A. . 822
La Fargue *v.* Stead, 28 Sol. J. 547—Q. B. D. 613
Lamb's Trusts, *In re*, 28 Ch. D. 77 : 54 L. J. Ch. 107 : 33 W. R. 163—Pearson, J. 895
Laming *v.* Gee, Gee, *In re*, 10 Ch. D. 715 : 48 L. J. Ch. 196 : 40 L. T. 33 : 27 W. R. 227—V.-C. H. 466
Landfield, *In re*, Landfield *v.* Landfield, 46 L. T. 227 : 30 W. R. 377—Fry, J. 998
Landowners' West of England and South Wales, &c., Co. *v.* Ashford, 33 W. R. 41—Pearson, J. 374, 620
Langdale Chemical Manure Co., Limited, *In re*, 26 W. R. 434—V.-C. H. . 961
Langen *v.* Tate, 24 Ch. D. 522 : 53 L. J. Ch. 361 : 49 L. T. 758 : 32 W. R. 189—C. A. 293
Langley *v.* Sugden, W. N. (1883), 198—Field, J. 613
Lawson *v.* Halford, 22 Nov. 1869, Reg. Lib. B. 3117—M. R. 76
—— *v.* Vacuum Brake Co., 27 Ch. D. 137 : 54 L. J. Ch. 16 : 51 L. T. 275 ; 33 W. R. 186—C. A. 293

Lee—Luk.

PAGE

Lee *v.* Angus, L. R. 2 Eq. 59 : 35 L. J. Ch. 370 : 14 L. T. 324 : 14 W. R. 667—V.-C. W. 306

Lee & Hemingway, *In re*, 24 Ch. D. 669 : 49 L. T. 155 : 32 W. R. 226 North, J. 914

Leeming *v.* Murray, 13 Ch. D. 123 : 48 L. J. Ch. 737 : 28 W. R. 338—M. R. 285

Lees *v.* Patterson, 7 Ch. D. 866 : 47 L. J. Ch. 616 : 38 L. T. 451 : 26 W. R. 399—Fry, J. 712

Leggott *v.* Western, 12 Q. B. D. 287 : 53 L. J. Q. B. 316 : 32 W. R. 460—Q. B. D. 418

Leighton *v.* Price, Price, *In re*, 27 Ch. D. 552 : 51 L. T. 497 : 32 W. R. 1009—V.-C. B. 1009

Lenders *v.* Anderson, 12 Q. B. D. 50 : 53 L. J. Q. B. 104 : 49 L. T. 537 : 32 W. R. 230—C. A. 146

Levetus *v.* Newton, 28 Sol. J. 166—Chitty, J. 616

Lewin, *In re*, 33 W. R. 128 : W. N. (1884), 224—Kay, J. 33

Lewis *v.* The Aberdare and Plymouth Co., 53 L. J. Ch. 741 : 50 L. T. 451 ; W. N. (1884), 116—Kay, J. 664

Liardet *v.* Hammond Electric Light and Power Co., 31 W. R. 710 : W. N. (1883), 96—C. A. 201

Lightowler *v.* Lightowler, W. N. (1884), 8—Butt, J. 146

Litchfield *v.* Jones, 54 L. J. Ch. 207 : 51 L. T. 572 : 33 W. R. 251 : W. N. (1884), 210—Pearson, J. 795

—— *v.* —— 25 Ch. D. 64 : 32 W. R. 288—North, J. . . . 395, 797

Llanover *v.* Homfray, 19 Ch. D. 224 : 30 W. R. 557—C. A. . . . 269

Lloyd *v.* Lewis, 2 Exch. D. 7 : 46 L. J. Exch. 81 : 35 L. T. 539 : 25 W. R. 102—C. A. 931

Llynvi and Ogmore Coal and Iron Co., *In re*, 37 L. T. 83 : 26 W. R. 55—V.-C. M. 959

Lockwood *v.* Ellam, 20 Dec. 1866, Reg. Lib. A. 2640—V.-C. S. . . . 731

Login *v.* Princess of Coorg, 19 March, 1861, Reg. Lib. B. 1898—M. R. . 76

—— *v.* —— 30 Beav. 632—M. R. 813, 814

—— *v.* —— 10 July, 1865, Reg. Lib. B. 2401—M. R. . . . 815

London Land Co. *v.* Harris, 13 Q. B. D. 540 : 53 L. J. Q. B. 536 : 51 L. T. 296 : 33 W. R. 14—Q. B. D. 822

London, *Ex parte* Mayor of, 25 Ch. D. 384 : 53 L. J. Ch. 6 : 49 L. T. 437 : 32 W. R. 87—Kay, J. 913

London, Mayor, &c., of, *v.* Cox, L. R. 2 H. L. 239 : 36 L. J. Exch. 225 : 16 W. R. 44—H. L. 707

London *v.* Roffey, 3 Q. B. D. 6 : 47 L. J. Q. B. 16 : 26 W. R. 79—Q. B. D. 347, 349

London Steamboat Co., *In re*, 31 W. R. 781 : W. N. (1883), 123—Chitty, J. 971

London & Provincial Stock Exchange Co. *v.* Willis, 28 Sol. J. 478—Q. B. D. 181

Longman *v.* East, 3 C. P. D. 142 : 47 L. J. C. P. 211 : 38 L. T. 11 : 26 W. R. 183—C. A. 327, 341, 342, 925

Longstaff, *In re*, Blenkharn *v.* Longstaff, W. N. (1884), 216—Kay, J. . . 9

Loughran *v.* The Chapel House Colliery Co., 28 Sol. J. 217—Chitty, J. . 656

Lovell *v.* Wallis, 53 L. J. Ch. 494 : 49 L. T. 593 : W. N. (1883), 231—Kay, J. 282

Lowestoft, Yarmouth and Southwold Tramways Co., *In re*, 6 Ch. D. 484 : 46 L. J. Ch. 393 : 36 L. T. 578 : 25 W. R. 525—M. R. . . . 907, 911

Lucy *v.* Wood, W. N. (1884), 58—Field, J. 423

Luke *v.* Tonkin, Symonds, *In re*, 21 Ch. D. 757 : 52 L. J. Ch. 709 : 46 L. T. 684 : 30 W. R. 874—Fry, J. 466

Lum—Mas. PAGE

Lumb *v.* Beaumont, 27 Ch. D. 356 : 53 L. J. Ch. 1111 : 51 L. T. 197 : 32 W. R. 985—Pearson, J. 785

Lumsden *v.* Winter, 8 Q. B. D. 650 : 51 L. J. Q. B. 413 : 30 W. R. 751—Q. B. D. 253

Lydney and Wigpool Iron Ore Co. *v.* Bird, 23 Ch. D. 358 : 52 L. J. Ch. 640 : 48 L. T. 893 Pearson, J. 837

Lyell *v.* Kennedy, 20 Ch. D. 491 : 51 L. J. Ch. 409 : 46 L. T. 752 : 30 W. R. 493 ;—8 App. Cas. 217 : 52 L. J. Ch. 385 : 48 L. T. 585 : 31 W. R. 618—C. A. & H. L. 234

—— *v.* —— 27 Ch. D. 1 : 53 L. J. Ch. 937 : 50 L. T. 730—C. A. . 795, 796, 801, 803

Lyle *v.* Ellwood, L. R. 19 Eq. 98 : 44 L. J. Ch. 164 : 23 W. R. 157—V.-C. H. 471

Lyons, *In re*, 22 L. T. 770 : 18 W. R. 238—L. J. G. 580

M.

McDonald *v.* Foster, 6 Ch. D. 193 : 37 L. T. 296 : 25 W. R. 687—C. A. . 258, 462, 540

McGowan *v.* Middleton, 11 Q. B. D. 464 : 52 L. J. Q. B. 355 : 31 W. R. 834—C. A. 235

McIlwraith *v.* Green, 13 Q. B. D. 897 : 54 L. J. Q. B. 41 : 51 L. T. 822—C. A. 184, 225

McRae, *In re*, Forster *v.* Davis, Norden *v.* McRae, 25 Ch. D. 16 : 53 L. J. Ch. 1132 : 49 L. T. 544 : 32 W. R. 304—C. A. 462

Macdonald *v.* Antelme, Patterson & Co., W. N. (1884), 72—Field, J. . . 173

—— *v.* Tacquah Gold Mine Co., 13 Q. B. D. 535 : 53 L. J. Q. B. 376 : 51 L. T. 210 : 32 W. R. 760—C. A. 422

Mac Ilroy *v.* Duncan, W. N. (1884), 48—Field, J. 793

Mack *v.* Ward, W. N. (1884), 16—Mathew, J. 422

Mackenzie's Trusts, *In re*, 23 Ch. D. 750 : 52 L. J. Ch. 726 : 48 L. T. 936 : 31 W. R. 948—Chitty, J. 1003

Madgwick, *In re*, 25 Ch. D. 371 : 53 L. J. Ch. 333 : 49 L. T. 560 : 32 W. R. 512—V.-C. B. 915

Madras Irrigation and Canal Co., *In re*, 23 Ch. D. 248 : 49 L. T. 228—C. A. 624

—— —— 16 Ch. D. 702 : 29 W. R. 520—M. R. . 822

Maidstone and Ashford Railway Co., *In re*, 25 Ch. D. 168 : 53 L. J. Ch. 127 : 49 L. T. 777 ; 32 W. R. 181—Chitty, J. 915

Main's Manufacturing Co., *In re*, W. N. (1884), 171—Chitty, J. 959

Manchester Economic Building Society, *In re*, 24 Ch. D. 488 ; 53 L. J. Ch. 115 : 49 L. T. 793 : 32 W. R. 325—C. A. 624

Mandy *v.* Morrish, 28 Sol. J. 67—C. A. 35

Mansbergh and Wife *v.* Rimell, W. N. (1884), 34—Mathew, J. . . . 180

Marriott *v.* Marriott, 26 W. R. 416—M. R. 134, 136, 200

Martin, *In re*, Dier *v.* Martin, W. N. (1884), 112—Kay, J. 606

—— *In re*, Hunt *v.* Chambers, 20 Ch. D. 365 : 51 L. J. Ch. 683 : 46 L. T. 399 : 30 W. R. 527—C. A. 327

Martin *v.* Beauchamp (Earl), 25 Ch. D. 12 : 53 L. J. Ch. 1150 : 49 L. T. 334 : 32 W. R. 17—C. A. 847

Martyn, *In re*, 26 Ch. D. 745 : 50 L. T. 552 : 32 W. R. 734—C. A. . . 895

Mason, *In re*, Turner *v.* Mason, W. N. (1883), 147—Chitty, J. 66

Massam *v.* Thorley's Cattle Food Co., 41 L. T. 543 : 28 W. R. 295 : W. N. (1879), 181—V.-C. M. 281

Mat—Nad. PAGE

Mathias *v.* Mathias, W. N. (1876), 214—M. R. 134
Matthews *v.* Ovey, 13 Q. B. D. 403 : 53 L. J. Q. B. 439 : 50 L. T. 776—C. A. 349
Maule *v.* Eaton, 3 May, 1866, Reg. Lib. A. 879 : 8 Dec. 1866, Reg. Lib. B. 2671—V.-C. W. 695
May, *In re*, 25 Ch. D. 231 : 49 L. T. 770 : 32 W. R. 337 —Pearson, J. . 973
—— W. N. (1885), 3—C. A. 973
May *v.* Dowse, W. N. (1884), 122—Pearson, J. 769
Mayer *v.* Murray, 8 Ch. D. 424 : 47 L. J. Ch. 605—M. R. 466
Mee *v.* Denbigh, 27 Sol. J. 617—Chitty, J. 126
Meek *v.* Burnley, 12 Jan. 1863, Reg. Lib. B. 6—M. R. 89
Mellor's Policy Trusts, *In re*, 6 Ch. D. 127 : 47 L. J. Ch. 246 : 26 W. R. 10—V.-C. M. 1011
Mellor *v.* Porter, 25 Ch. D. 158 : 53 L. J. Ch. 178 : 50 L. T. 49—Kay, J. 50
—— *v.* Swire, Swire, *In re*, 21 Ch. D. 647 : 46 L. T. 437 : 30 W. R. 525—C. A. 817
Mellows *v.* Bannister, 31 W. R. 238 : W. N. (1882), 183—Fry, J. . 141, 142
Mendelsohn *v.* Hoppe, W. N. (1884), 31—Mathew, J. 613
Mercer *v.* Lawrence, 26 W. R. 506 : W. N. (1878), 103—V.-C. H. . . 362
Mersey Steamship Co. *v.* Shuttleworth, 10 Q. B. D. 468 : 48 L. T. 389 : 31 W. R. 609—Q. B. D. . . 246
—— *v.* —— 11 Q. B. D. 531 : 52 L. J. Q. B. 522 : 48 L. T. 625 : 32 W. R. 245—C. A. 246
Meyrick *v.* Laws, W. N. (1877), 223—M. R. 26
Miles *v.* Jarvis, 50 L. T. 48 : W. N. (1883), 203—Kay, J. 65
Millard *v.* Baddeley and others, W. N. (1884), 96—Field, J. 181
Mills, *In re*, Mills *v.* Mills, W. N. (1884), 21—Pearson, J. 457
Milton, *In re*, 53 L. J. Q. B. 65 : 50 L. T. 170 : 32 W. R. 238—C. A. . 621
Miltown *v.* Stewart, 8 Sim. 34 326
Moate's Trusts, *In re*, 22 Ch. D. 635 : 31 W. R. 497—Chitty, J. . 579, 887
Moore *v.* Mulligan, W. N. (1884), 34—Mathew, J. 61, 180
Morecroft *v.* Evans, W. N. (1882), 189—C. A. 626
Moreton, *In re*, Hopcroft *v.* Moreton, 18 July, 1870, Rolls Lib.—M. R. . 509
—— *v.* Holt, 10 Exch. 707 : 24 L. J. Exch. 169 : 1 Jur. N. S. 215 : 24 L. T. 261 : 3 W. R. 207—Exch. 497
Morton *v.* Miller, 3 Ch. D. 516 : 45 L. J. Ch. 613 : 24 W. R. 723—C. A. 318, 325, 330
Moss *v.* Bradburn, 32 W. R. 368 : W. N. (1884), 14—Pearson, J. . . 327
"M. Moxham, The," 1 P. D. 107 : 34 L. T. 559 : 24 W. R. 650—C. A. . 289
Moxon *v.* Locker, 16 June, 1870, Reg. Lib. 1668—V.-C. J. . . . 694
Mulkern *v.* Doerks, 53 L. J. Q. B. 526 : 51 L. T. 429—Q. B. D. . . . 149
Munns and Longden, *In re*, 50 L. T. 356 : 32 W. R. 675 : W. N. (1884), 117—Kay, J. 454
Munster, *Ex parte*, L. R. 5 Ch. 323 : 39 L. J. Ch. 477 : 22 L. T. 394 : 18 W. R. 393—L. J. G. 372, 386
—— *v.* Railton, 11 Q. B. D. 435 : 52 L. J. Q. B. 409 : 48 L. T. 624 : 31 W. R. 880—C. A. 32
Myers' Patent, *In re*, W. N. (1882), 53—V.-C. H. 693

N.

NADIN *v.* Bassett, 25 Ch. D. 21 : 53 L. J. Ch. 253 : 49 L. T. 454 ; 32 W. R. 70—C. A. 293

New—Par. PAGE

Newby *v.* Van Oppen, L. R. 7 Q. B. 293 : 41 L. J. Q. B. 148 : 26 L. T. 164 : 20 W. R. 383—Q. B. 168
New Callao, *In re*, 22 Ch. D. 484 : 52 L. J. Ch. 283 : 48 L. T. 251 : 31 W. R. 185—C. A. 624
New Westminster Brewery Co. *v.* Hannah, 1 Ch. D. 277—V.-C. H. . . 277
Newland *v.* Steer, 11 Jur. N. S. 596 : 13 L. T. 111 : 13 W. R. 1014—V.-C. K. 306
Nichols *v.* Evens, 22 Ch. D. 611 : 52 L. J. Ch. 383 : 48 L. T. 66 : 31 W. R. 412—Fry, J. 182, 224
Nixon *v.* Sheldon, Sheldon *v.* Nixon, 53 L. J. Ch. 624 : 50 L. T. 245 : W. N. (1884), 81—C. A. 626
Norden *v.* McRae, McRae, *In re*, Forster *v.* Davis, 25 Ch. D. 16 : 53 L. J. Ch. 1132 : 49 L. T. 544 : 32 W. R. 304—C. A. 462
Norris, *In re*, Allen *v.* Norris, W. N. (1884), 118—Pearson, J. . . . 462
—— *v.* Sadleir, 14 Jan. 1864, Reg. Lib. B. 191—M. R. 465
Northampton Coal Co. *v.* Midland Wagon Co., 7 Ch. D. 500 : 38 L. T. 82 : 26 W. R. 485—C. A. 839
North London Land Co. *v.* Jacques, 49 L. T. 659 : 32 W. R. 283—V.-C. B. 999
Norton *v.* Compton, Compton, *In re*, 27 Ch. D. 392 : 51 L. T. 277 : 33 W. R. 160—C. A. 628
Nothard *v.* Proctor, 16 Nov. 1875, Reg. Lib. B. 2872—V.-C. B. . . . 831
Nott *v.* Sands, W. N. (1883), 74—Pearson, J. 422, 620

O.

Oglesby, *In re*, W. N. (1879), 151—M. R. 926
Oldham *v.* Stringer, 51 L. T. 895 : 33 W. R. 251 : W. N. (1884), 235—Kay, J. 664, 999
Olive, *In re*, Olive *v.* Westerman, 53 L. J. Ch. 525 : 50 L. T. 355 : 32 W. R. 608 : W. N. (1884), 81—Kay, J. 491
O'Meara *v.* Stone, W. N. (1884), 72—Field, J. 790
Oppenheimer *v.* Davenport, W. N. (1884), 57—Field, J. 613
Orde, *In re*, 24 Ch. D. 271 : 52 L. J. Ch. 832 : 49 L. T. 430 : 31 W. R. 801—C. A. 536
Ormerod *v.* Todmorden Mill Co., 8 Q. B. D. 664 : 51 L. J. Q. B. 348 : 46 L. T. 669 : 30 W. R. 805—C. A. 341
Ormond *v.* Townsend, 16 Dec. 1875, Reg. Lib. B. 2099—M. R. 342
Orr-Ewing, *In re*, 22 Ch. D. 456 : 52 L. J. Ch. 529 : 48 L. T. 555 : 31 W. R. 465—C. A. 146
Osborne *v.* Homburg, 1 Exch. D. 48 : 45 L. J. Exch. 65 : 33 L. T. 534 : 24 W. R. 161—Exch. D. 824
O'Sheehy *v.* O'Sheehy, 34 L. T. 367—P. D. 141, 142
Owen *v.* Henshaw, 7 Ch. D. 385 : 47 L. J. Ch. 267—V.-C. H. . . . 861

P.

Padgett *v.* Binns, W. N. (1884), 10—Mathew, J. 246
Page, *In re*, 5 Aug. 1870, Reg. Lib. 2378—V.-C. M. 883
Palmer, *In re*, Skipper *v.* Skipper, 49 L. T. 553 : 32 W. R. 83—V.-C. B. . 335
—— *v.* Gould's Manufacturing Co., W. N. (1884), 63—Field, J. . . 168
—— *v.* Walesby, L. R. 3 Ch. 732—L.JJ. 54
Parker, *In re*, Cash *v.* Parker, 12 Ch. D. 293 : 48 L. J. Ch. 691 : 40 L. T. 878—Fry, J. 718

Par—Pot. PAGE

Paris Skating Rink Co., *In re*, 6 Ch. D. 731 : 46 L. J. Ch. 831 : 37 L. T. 298 : 25 W. R. 767—C. A. 706
Parsons and another *v.* Burton, W. N. (1883), 215—Field, J. . . 244, 245
Part *v.* Griffiths, 28 Sol. J. 339—Chitty, J. 172
Partington *v.* Reynolds, 4 Drew. 253 : 6 W. R. 307—V.-C. K. . . . 466
Patching *v.* Bull, 46 L. T. 227 : 30 W. R. 244—Fry, J. 996
Paull, *In re*, 32 W. R. 901 : W. N. (1884), 133—Pearson, J. 869
—— 27 Ch. D. 485 : 54 L. J. Ch. 134 : 51 L. T. 435 : 32 W. R. 940—C. A. 869
Paxton *v.* Bell, 24 W. R. 1013 : W. N. (1876), 249—C. A. 837
Payne, *In re*, Randle *v.* Payne, 23 Ch. D. 288 : 52 L. J. Ch. 544 : 48 L. T. 194 : 31 W. R. 509—C. A. 847
Pearson *v.* Ripley, 50 L. T. 629 : 32 W. R. 463—Q. B. D. 613
Peckett *v.* Short, 32 W. R. 123—Q. B. D. 349
Pepper, *In re*, Pepper *v.* Pepper, 53 L. J. Ch. 1054 : 50 L. T. 580 : 32 W. R. 765 : W. N. (1884), 141—V.-C. B. 47
Peppitt's Estate, *In re*, Chester *v.* Phillips, 4 Ch. D. 230 : 46 L. J. Ch. 95 : 35 L. T. 902 : 25 W. R. 211—V.-C. B. 65
Perkins, *In re*, Perkins *v.* Perkins, 26 July, 1870, at Chambers—M. R. . . 606
Perks *v.* Mylrea, W. N. (1884), 64—Field, J. 61, 180
Perrin, *In re*, Court *v.* Perrin, 31 Jan., 1876, Reg. Lib. B. 127—M. R. . 344
Peruvian Guano Co. *v.* Bockwoldt, 23 Ch. D. 225 : 52 L. J. Ch. 714 : 48 L. T. 7 : 31 W. R. 851—C. A. 852
Peter *v.* Thomas-Peter, 26 Ch. D. 181 : 53 L. J. Ch. 514 : 50 L. T. 176 : 32 W. R. 515—Chitty, J. 88
Philips *v.* Beale, 26 Ch. D. 621 : 54 L. J. Ch. 80 : 50 L. T. 433 : 32 W. R. 665—C. A. 324
Phosphate Sewage Co. *v.* Hartmont, 2 Ch. D. 811—C. A. 626
Photographic Artists' Co-operative Supply Association, *In re*, 23 Ch. D. 370 : 52 L. J. Ch. 654 : 48 L. T. 454 : 31 W. R. 509—C. A. . . . 626
Picard *v.* Hine, 18 L. T. 705—V.-C. S. 825
Picasso *v.* Trustees of Maryport Harbour, W. N. (1884), 85—Field, J. . 616
Pickard *v.* Great Northern Railway Co., W. N. (1883), 194—Field, J. . . 337
Pickering, *In re*, Pickering *v.* Pickering, 25 Ch. D. 247 : 53 L. J. Ch. 550 : 50 L. T. 131 : 32 W. R. 511—C. A. 805
Pierson *v.* Knutsford Estates Co., 13 Q. B. D. 666 : 53 L. J. Q. B. 181 : 32 W. R. 451—C. A. 861
Pilling's Trusts, *In re*, 26 Ch. D. 432 : 53 L. J. Ch. 1052 : 32 W. R. 853 —Pearson, J. 358
Platt *v.* Mendel, 27 Ch. D. 246 : 51 L. T. 424 : 32 W. R. 916—Chitty, J. . 664
Ponsonby *v.* Hartley, W. N. (1883), 44—C. A. 803
Pontifex *v.* Foord, 12 Q. B. D. 152 : 53 L. J. Q. B. 321 : 49 L. T. 808 : 32 W. R. 316—Q. B. D. 73
Pooley *v.* Bosanquet, 7 Ch. D. 541 : 26 W. R. 587—M. R. . . . 139
—— (Trustee of) *v.* Whetham, 53 L. J. Ch. 1105 : 32 W. R. 1017 : W. N. (1884), 176—Pearson, J. . . . 837
—— *v.* —— 28 Ch. D. 38 : 54 L. J. Ch. 182 : 51 L. T. 608—C. A. 837
Porter *v.* West, W. N. (1880), 195—Fry, J. 861
Potters *v.* Miller, 31 W. R. 858—Q. B. D. 237
Potteries, Shrewsbury and North Wales Railway Co., *In re*, 25 Ch. D. 251 : 53 L. J. Ch. 556 : 50 L. T. 294 : 32 W. R. 300—C. A. 905, 909

Pra—Rob. PAGE

Pratt *v.* Pratt, 51 L. J. Ch. 838 : 47 L. T. 249 : 30 W. R. 837—V.-C. B. . 806
Prestney *v.* Mayor of Colchester, 24 Ch. D. 376 : 52 L. J. Ch. 877 : 48 L. T. 749 : 31 W. R. 757—C. A. 800
Preston *v.* Lamont, 1 Exch. D. 361 : 45 L. J. Exch. 797 : 35 L. T. 341 : 24 W. R. 928—Exch. D. 151, 200
Price, *In re*, Leighton *v.* Price, 27 Ch. D. 552 : 51 L. T. 497 : 32 W. R. 1009—V.-C. B. 1009
Pritchard *v.* Pritchard, 14 Q. B. D. 55 : 51 L. T. 859 : 33 W. R. 198—Q. B. D. 349
Pyman & Co. *v.* Burt, Boulton and another, 1 C. & E. 207 : W. N. (1884), 100—Hawkins, J. 374, 620

Q.

Quartz Hill Co., *In re*, *Ex parte* Young, 21 Ch. D. 642 : 51 L. J. Ch. 940 : 47 L. T. 644 : 31 W. R. 173—C. A. 281
Quilter *v.* Mapleson, 9 Q. B. D. 672 : 52 L. J. Q. B. 44 : 47 L. T. 561 : 31 W. R. 75—C. A. 999

R.

Rafael *v.* Ongley, 34 L. T. 124—V.-C. H. 141
Randle *v.* Payne, Payne, *In re*, 23 Ch. D. 288 : 52 L. J. Ch. 544 : 48 L. T. 194 : 31 W. R. 509—C. A. 847
Ray's Settled Estates, *In re*, 25 Ch. D. 464 : 53 L. J. Ch. 205 : 50 L. T. 80 : 32 W. R. 458—Pearson, J. 1008
Raymond *v.* Tapson, 22 Ch. D. 430 : 48 L. T. 403 : 31 W. R. 394—C. A. 301, 442
Real and Personal Advance Co. *v.* McCarthy, 14 Ch. D. 188 : 49 L. J. Ch. 615 : 42 L. T. 48 : 28 W. R. 418—Fry, J. 257
Reg. *v.* Bayley, 8 Q. B. D. 411 : 51 L. J. Q. B. 244 : 30 W. R. 522—Q. B. D. 847
— *v.* Entrehman, Car. & Marsh. 248 312
Reid and Glasgow *v.* Powers, 28 Sol. J. 653—Q. B. D. 785
Republic of Costa Rica *v.* Erlanger, 3 Ch. D. 62 : 45 L. J. Ch. 743 : 35 L. T. 19 : 24 W. R. 955—C. A. 837
Richards *v.* Howell, W. N. (1883), 159, 168—Kay, J., and C. A. . . . 850
Richardson *v.* Leake, W. N. (1879), 181—V.-C. M. 108
Ricketts, *In re*, 3 N. R. 56 : 9 L. T. 405—M. R. 928
Riddell *v.* Errington, 26 Ch. D. 220 : 54 L. J. Ch. 293 : 50 L. T. 584 : 32 W. R. 680—Pearson, J. 988
Ridgway *v.* Ridgway, 23 May, 1866, Reg. Lib. A. 901—V.-C.W. . . . 696
Riley's Trusts, *In re*, 30 W. R. 78—V.-C. H. 358
Riseley *v.* Sheppard, 21 W. R. 782 : W. N. (1873), 150—L. C. for M. R. . 269
River Plate Fresh Meat Co., Limited, *In re*, 33 W. R. 319 : W. N. (1885), 14—V.-C. B. 961
Roberts *v.* Ball, 3 Sm. & G. 168 : 1 Jur. N. S. 585—V.-C. S. 396
—— *v.* Death, 8 Q. B. D. 319 : 51 L. J. Q. B. 15 : 46 L. T. 246 : 30 W. R. 76—C. A. 422
—— *v.* Oppenheim, 26 Ch. D. 724 : 53 L. J. Ch. 1148 : 50 L. T. 729 : 32 W. R. 654—C. A. 794, 804
Robinson *v.* Budgett, W. N. (1884), 94—Field, J. 793, 803
—— *v.* Drakes, 23 Ch. D. 98 : 48 L. T. 740 : 31 W. R. 871—C. A. 613, 627
—— *v.* Local Board of Barton, 21 Ch. D. 621 : 52 L. J. Ch. 5 : 47 L. T. 286—C. A. 357

Rob—She. PAGE

Robinson *v.* Tucker, 14 Q. B. D. 371 : 53 L. J. Q. B. 317 : 50 L. T. 380 : 32 W. R. 697—C. A. 349, 681
Roffey *v.* Miller, 24 W. R. 109 : W. N. (1875), 225—M. R. 85
Roskrow, *Ex parte*, W. N. (1885), 3—V.-C. B. 973
Ross *v.* Ashwin, W. N. (1884), 86—Field, J. 619
Royle, *In re*, 5 Ch. D. 540 : 36 L. T. 41 : 25 W. R. 528 V.-C. B. . . . 108
Rudge *v.* Winnall, 11 Beav. 98—M. R. 596
Runnacles *v.* Mesquita, 1 Q. B. D. 416 : 45 L. J. Q. B. 407 : 24 W. R. 553 —Q. B. D. 181
Rush, *In re*, 22 L. T. 416 : 18 W. R. 417—M. R. 411
Rutland's (Duke of) Settlement, *In re*, 49 L. T. 196 : 31 W. R. 947 : W. N. (1883), 140—Chitty, J. 914

S.

St. John *v.* Harrison, 15 Nov. 1866, Reg. Lib. B. 2269—M. R. 76
Salm-Kyrburg *v.* Posnanski, 13 Q. B. D. 218 : 53 L. J. Q. B. 428 : 32 W. R. 752—Q. B. D. 395
Salt *v.* Cooper, 16 Ch. D. 544 : 50 L. J. Ch. 529 : 43 L. T. 682 : 29 W. R. 553—C. A. 415, 719
Sanders *v.* Peek, 50 L. T. 630 : 32 W. R. 462—Q. B. D. 66
Sanford, *In re*, W. N. (1867), 77 : 23 Feb. 1867, Reg. Lib. B. 584—V.-C. W. 973
Sanger *v.* Sanger, 19 June, 1868, Reg. Lib. B. 1874—M. R. 44
Sargant *v.* Read, 1 Ch. D. 600 : 45 L. J. Ch. 206—M. R. 720
Saunders *v.* Pawley, 14 Q. B. D. 234 : 51 L. T. 895 : 33 W. R. 277 : W. N. (1885), 8—Q. B. D. 325
Sawyer *v.* Sawyer, W. N. (1883), 181—Chitty, J. 73
Saywood *v.* Cross, 14 Q. B. D. 53 : 54 L. J. Q. B. 17 : 5 L. T. 601 : 33 W. R. 135—Q. B. D. 613
Schneider *v.* Batt, 8 Q. B. D. 701 : 50 L. J. Q. B. 525 : 45 L. T. 589 : 30 W. R. 420—C. A. 73
Scott *v.* Padwick, W. N. (1877), 13—M. R. 317
—— *v.* Royal Wax Candle Co., 1 Q. B. D. 404 : 45 L. J. Q. B. 586 : 34 L. T. 683 : 24 W. R. 668—Q. B. D. 177
—— *v.* Sharpe, Sharpe, *In re*, W. N. (1884), 28—Kay, J. 822
—— *v.* Stanford, 7 Feb. 1867, Reg. Lib. B. 528 : L. R. 3 Eq. 718 : 36 L. J. Ch. 729 : 16 L. T. 51 : 15 W. R. 757—V.-C. W. 694
Scutt *v.* Freeman, 2 Q. B. D. 177 : 46 L. J. Q. B. 173 : 35 L. T. 939 : 25 W. R. 251—Q. B. D. 347
Searle *v.* Choat, 25 Ch. D. 723 : 53 L. J. Ch. 506 : 50 L. T. 470 : 32 W. R. 397—C. A. 719, 730
Searle & Co. *v.* Matthews, W. N. (1883), 176—Field, J. 681
Secar *v.* Webb, 25 Ch. D. 84 : 53 L. J. Ch. 464 : 49 L. T. 481 : 32 W. R. 351—C. A. 16, 326
Seixo *v.* Provezende, L. R. 1 Ch. 192 : 12 Jur. N. S. 215 : 14 L. T. 314 : 14 W. R. 357—L. C. 696
Severance *v.* Civil Service Association, 48 L. T. 485—Q. B. D. 61
Shapcott *v.* Chappell, 12 Q. B. D. 58 : 53 L. J. Q. B. 77 : 32 W. R. 183—Q. B. D. 349
Sharp *v.* Lush, 10 Ch. D. 468 : 27 W. R. 528—M. R. 83, 465
—— *v.* Wright, 15 Jan. 1878, at Chambers—M. R. 739
Sharpe, *In re*, Scott *v.* Sharpe, W. N. (1884), 28—Kay, J. 822
Shearman *v.* Findlay, 32 W. R. 122—Q. B. D. 145

She—Sta. PAGE

Sheldon *v.* Nixon, Nixon *v.* Sheldon, 53 L. J. Ch. 624 : 50 L. T. 245 : W. N. (1884), 81—C. A. 626

Shillito *v.* Child, W. N. (1883), 208—Field, J. 32

Showell *v.* Bowron, 52 L. J. Q. B. 284 : 48 L. T. 613 : 31 W. R. 550 : W. N. (1883), 50—Q. B. D. 246

Simmons *v.* Storer, 14 Ch. D. 154 : 49 L. J. Ch. 121 : 42 L. T. 291 : 28 W. R. 408—M. R. 619

Simpson's Estate, *In re*, 14 Dec. 1876, at Chambers—M. R. 770

Skipper *v.* Skipper, Palmer, *In re*, 49 L. T. 553 : 32 W. R. 83—V.-C. B. . 335

Smith, *In re*, Hooper *v.* Smith, 26 Ch. D. 614 : 53 L. J. Ch. 1149 : 33 W. R. 18—C. A. 623

—— *In re*, Hutchinson *v.* Ward, 6 Ch. D. 692 : 36 L. T. 178 : 25 W R. 452—V.-C. Hall 258, 462

—— *In re*, Smith *v.* Went, 50 L. T. 382 : 32 W. R. 512 : W. N. (1884), 81—Kay, J. 790

—— *v.* Armitage, Armitage, *In re*, 24 Ch. D. 727 : 52 L. J. Ch. 711 : 49 L. T. 236 : 32 W. R. 88—Denman, J. 205

—— *v.* Bell, W. N. (1883), 196—Field, J. 179

—— *v.* British Marine Mutual Insurance Association, W. N. (1883), 232—Field, J. 201

—— *v.* Cowell, 6 Q. B. D. 75 : 50 L. J. Q. B. 38 : 43 L. T. 228 : 29 W. R. 227—C. A. 415, 719

—— *v.* Darlow, 26 Ch. D. 605 : 53 L. J. Ch. 696 : 50 L. T. 571 : 32 W. R. 665—C. A. 681

—— *v.* Dobbin, 3 Exch. D. 338 : 47 L. J. Exch. 65 : 37 L. T. 777 : 26 W. R. 59—C. A. 177

—— *v.* Olding, 25 Ch. D. 462 : 54 L. J. Ch. 250 : 50 L. T. 357 : 32 W. R. 386—Pearson, J. 664

—— *v.* Parkside Mining Co., 6 Q. B. D. 67 : 50 L. J. Q. B. 144 : 29 W. R. 154—Exch. D. 623

—— *v.* Reed, W. N. (1883), 196 791

—— *v.* Smacksmen Insurance Co., 32 W. R. 184—Q. B. D. 349

—— *v.* Watts, Watts, *In re*, 22 Ch. D. 5 : 52 L. J. Ch. 209 ; 48 L. T. 167 : 31 W. R. 262—C. A. 441

Snow *v.* Bolton, 17 Ch. D. 433 : 50 L. J. Ch. 743 : 44 L. T. 571 : 29 W. R. 583—Fry, J. 395, 405

Soutar's Policy Trusts, *In re*, 26 Ch. D. 236 : 54 L. J. Ch. 256 : 32 W. R. 701—Pearson, J. 1010

South, *In re*, L. R. 9 Ch. 369—L.JJ. 386

South African Syndicate Co., *In re*, 28 Sol. J. 120—Chitty, J. 149

South Western District Bank *v.* Turner, 47 L. T. 433 : 31 W. R. 113 –V.-C.B. 664

Southwold Railway Co.'s Bill, *In re*, 1 Ch. D. 697 : 45 L. J. Ch. 800 : 34 L. T. 56 : 24 W. R. 293—V.-C. H. 899

Speckhart *v.* Campbell, Achnach & Co., W. N. (1884), 24—Mathew, J. . 146

Speller *v.* Bristol Steam Navigation Co., 13 Q. B. D. 96 : 53 L. J. Q. B. 322 : 50 L. T. 419 : 32 W. R. 670—C. A. 69, 146

Spettigue's Trusts, *In re*, 32 W. R. 385 : W. N. (1884), 6—Pearson, J. . . 615

Spike *v.* Harding, 7 Ch. D. 871 : 47 L. J. Ch. 323 : 38 L. T. 285 : 26 W. R. 420—Fry, J. 645, 651

Sproat *v.* Peckett, 48 L. T. 755 : W. N. (1883), 76—V.-C. B. 149

Stafford and Uttoxeter Railway, *In re*, W. N. (1868), 113—V.-C. G. . . . 918

Stanford *v.* Roberts, 52 L. J. Ch. 50 : 48 L. T. 262 : W. N. (1882), 146—Kay, J. 578

Sta—Tet. PAGE

Stanger-Leathes *v.* Stanger-Leathes, W. N. (1882), 71—V.-C. B. . . 719
Stening's Trusts, *In re*, 50 L. T. 586 : W. N. (1884), 142—Pearson, J. . . 887
Sterry *v.* Truss, 18 Dec. 1865, Reg. Lib. B. 2401—V.-C. K. . . . 695
Stigand *v.* Stigand, 19 Ch. D. 460 : 51 L. J. Ch. 446 : 30 W. R. 312—V.-C. H. 144
Stock *v.* Jennings, Jennings, *In re*, 28 Sol. J. 477—Chitty, J. . . . 457
Stockbridge Railway Bill, *Ex parte*, L. R. 2 Eq. 364 : 12 Jur. N. S. 465 : 14 W. R. 826—M. R. 901
Strugnell *v.* Strugnell, 27 Ch. D. 258 : 53 L. J. Ch. 1167 : 51 L. T. 512 : 33 W. R. 30—Chitty, J. 650
Stuart *v.* Balkis Co., 53 L. J. Ch. 791 : 50 L. T. 479 : 32 W. R. 676 : W. N. (1884), 122—Chitty, J. 310
Sturgis *v.* Morse, 26 Beav. 562—M. R. 629
Suffolk *v.* Lawrence, 32 W. R. 899 : W. N. (1884), 158—Pearson, J. . . 457
Sullivan *v.* Plimpton, 11 Jan., 1869, Reg. Lib. B. 6—V.-C. M. . . . 695
Sutton, *In re*, 21 Ch. D. 855 : 46 L. T. 740 : 30 W. R. 657—North, J. . 888
Swansea Co-operative Building Society *v.* Davies, 12 Q. B. D. 21 : 53 L. J. Q. B. 64 : 49 L. T. 603 : 32 W. R. 185—Q. B. D. 347, 349
Swansea Shipping Co. *v.* Duncan, 1 Q. B. D. 644 : 45 L. J. Q. B. 638 : 35 L. T. 879 : 25 W. R. 610—C. A. 69
Swindells *v.* Birmingham Syndicate, W. N. (1884), 98—North, J. . . . 257
Swire, *In re*, Mellor *v.* Swire, 21 Ch. D. 647 : 46 L. T. 437 : 30 W. R. 525—C. A. 817
Sykes *v.* Schofield, 28 Sol. J. 477—Q. B. D. 146
—— *v.* —— 14 Ch. D. 629 : 49 L. J. Ch. 833 : 29 W. R. 63—M. R. 463
Symons, *In re*, Luke *v.* Tonkin, 21 Ch. D. 757 : 52 L. J. Ch. 709 : 46 L. T. 684 : 30 W. R. 874—Fry, J. 466

T.

Tamplin *v.* Miller, 30 W. R. 422 : W. N. (1882), 44—V.-C. H. 998
Tarn and another *v.* Commercial Banking Co. of Sydney, 12 Q. B. D. 294 : 50 L. T. 365 : 32 W. R. 492—Q. B. D. 245
Tattersall *v.* National Steamship Co., Limited, W. N. (1884), 32—Mathew, J. 854
Taylor, *In re*, 4 Ch. D. 157 : 46 L. J. Ch. 399 : 38 L. T. 169 : 25 W. R. 69—M. R. 978
—— *In re*, Tomlin *v.* Underhay, 22 Ch. D. 495 : 48 L. T. 552—C. A. . 856
—— *v.* Batten, 4 Q. B. D. 85 : 48 L. J. Q. B. 72 : 39 L. T. 408 : 27 W. R. 106—C. A. 801
—— *v.* Collier, 51 L. J. Ch. 853 ; 46 L. T. 168 : 30 W. R. 701—Fry, J. 32
—— *v.* Eckersley, 2 Ch. D. 302 : 45 L. J. Ch. 527 : 34 L. T. 637 : 24 W. R. 454—C. A. 719
—— *v.* Mostyn, 25 Ch. D. 48 : 53 L. J. Ch. 89 : 49 L. T. 483 : 32 W. R. 256—C. A. 656
—— *v.* Oliver, 45 L. J. Ch. 774 : 34 L. T. 902 : W. N. (1876), 241—V.-C. B. 801
—— *v.* Poncia, 25 Ch. D. 646 : 53 L. J. Ch. 409 ; 50 L. T. 20 : 32 W. R. 335—Pearson, J. 1010
Tempest *v.* Camoys, 21 Ch. D. 571 : 51 L. J. Ch. 785 : 48 L. T. 13 : 31 W. R. 326—C. A. 525
Tetley *v.* Wanless, L. R. 2 Exch. 21 : 36 L. J. Exch. 25 : 15 L. T. 255 : 15 W. R. 356—Exch. 192, 194
—— *v.* —— 2 L. R. Exch. 275 : 36 L. J. Exch. 153 : 16 L. T. 601 : 15 W. R. 932—Exch. Ch. 192, 194

Tho—Wal.

PAGE
Thomas, *In re*, 8 July, 1869, Reg. Lib. B. 2305—M. R. 936
Thomas *v.* Elsom, Elsom, *In re*, 6 Ch. D. 346 454
Thompson *v.* Wright, 13 Q. B. D. 632 : 54 L. J. Q. B. 32 : 51 L. T. 634 : 33 W. R. 96—Q. B. D. 680
Thorniley, *In re*, Woolley *v.* Thorniley, 53 L. J. Ch. 499 : 32 W. R. 539 : W. N. (1884), 83—Pearson, J. 244
Tillett *v.* Nixon, 25 Ch. D. 238 : 53 L. J. Ch. 199 : 49 L. T. 598 : 32 W. R. 226—Pearson, J. 718
Toke *v.* Andrews, 8 Q. B. D. 428 : 51 L. J. Q. B. 281 : 30 W. R. 659—Q. B. D. 195, 240
Tomlin *v.* Underhay, Taylor, *In re*, 22 Ch. D. 495 : 48 L. T. 552—C. A. . 856
Tottenham *v.* Barry, 12 Ch. D. 797 : 48 L. J. Ch. 641 : 28 W. R. 180 . 146
Towse *v.* Loveridge, 25 Ch. D. 76 : 53 L. J. Ch. 499 : 49 L. T. 466 : 32 W. R. 151—Pearson, J. 73
Tredwell *v.* Gray, 14 Dec. 1866, Reg. Lib. B. 2698—V.-C. K. . . . 696
Treherne *v.* Dale, 27 Ch. D. 66 : 51 L. T. 553 : 33 W. R. 97—C. A. 17, 393
Turner, *In re*, 14 Sept. 1875, Reg. Lib. B. 1592—V.-C. B. . . . 1011
Turner *v.* Hancock, 20 Ch. D. 303 : 51 L. J. Ch. 517 : 46 L. T. 750 : 30 W. R. 480—C. A. 613
—— *v.* Mason, Mason, *In re*, W. N. (1883), 147—Chitty, J. . . . 66
Turquand *v.* Wilson, 1 Ch. D. 85 ; 45 L. J. Ch. 104 : 24 W. R. 56—V.-C. H. 258
Tweedy, *In re*, 54 L. J. Ch. 304 : 51 L. T. 679 : W. N. (1884), 233—V.-C. B. 897
—— 33 W. R. 313 : W. N. (1885), 10—C. A. 397

U.

Union Bank of London *v.* Ingram, 20 Ch. D. 463 : 51 L. J. Ch. 508 : 46 L. T. 507 : 30 W. R. 375—C. A. 664
Upton *v.* Brown, 20 Ch. D. 731 : 47 L. T. 289 : 30 W. R.—C. A. . . 441

V.

Vale *v.* Oppert, 22 W. R. 629 : 30 L. T. 457—V.-C. B. 838
Van der Kan & Deitzman *v.* Ashworth & Co., W. N. (1884), 58—Field, J. . 678
Vane *v.* Vane, 2 Ch. D. 124 : 45 L. J. Ch. 381 : 34 L. T. 613 : 24 W. R. 602—M. R. 599
Van Gheluive *v.* Nerinckx, 21 Ch. D. 189 : 51 L. J. Ch. 929 : 47 L. T. 46 : 30 W. R. 789—Fry, J. 366
Vincent, *In re*, 26 W. R. 94 : W. N. (1877), 249—V.-C. H. 108
Vyse *v.* Brown, 13 Q. B. D. 199 : 33 W. R. 168—Williams, J. 422

W.

Wade *v.* Wilson, 22 Ch. D. 235 : 52 L. J. Ch. 399 : 47 L. T. 696 : 31 W. R. 237—Fry, J. 664
Wagstaff *v.* Jacobowitz, W. N. (1884), 17—Mathew, J. 180
Walker's Trusts, *In re*, 48 L. T. 632 : 31 W. R. 716—Kay, J. . . . 1008
Walker *v.* Blakemore, W. N. (1876), 112—V.-C. H. 85
—— *v.* Poole, 21 Ch. D. 835 : 51 L. J. Ch. 840—Kay, J. . . . 276, 801
Walley, *In re*, Walley *v.* Robinson, W. N. (1884), 144—Kay, J. . . . 457
Wallis *v.* Lichfield, W. N. (1876), 130—M. R. 327, 344

Wal—Wil.

PAGE
Walsh *v.* Wason, 30 L. T. 743 : 22 W. R. 676 : W. N. (1874), 125—M. R. 702
Walton Shore Road, *In re*, 15 W. R. 303 : 20 Dec. 1866, Reg. Lib. B. 2709 —V.-C. S. 931
Ward *v.* Morse, Brown, *In re*, 23 Ch. D. 377 : 52 L. J. Ch. 524 : 49 L. T. 68 : 31 W. R. 936—C. A. 613
—— *v.* Pilley, 5 Q. B. D. 427 : 49 L. J. Q. B. 705 : 43 L. T. 301 : 28 W. R. 937—C. A. 341
Ward *v.* Ward, 11 Beav. 159 : 12 Jur. 592 248
Waring *v.* Pearman, 50 L. T. 633 : 32 W. R. 429—Q. B. D. 613
Warner *v.* Powell, *In re*, L. R. 3 Eq. 261—V.-C. S. 931
Warner *v.* Mosses, W. N. (1881), 69—C. A. 276
—— *v.* Murdock, 4 Ch. D. 750 : 46 L. J. Ch. 121 : 35 L. T. 748 : 25 W. R. 207—C. A. 330
Warren, *In re*, Weadon *v.* Reading, W. N. (1884), 112—Kay, J. 457
Waters *v.* Waters, 34 L. T. 33 : 24 W. R. 190—P. D. 141, 142
Watkins *v.* Thomas, 23 Dec., 1869, Reg. Lib. B. 3157—M. R. 448
Watt *v.* Barnett, 3 Q. B. D. 183, 363 : 47 L. J. Q. B. 329 : 38 L. T. 903 : 26 W. R. 745—Q. B. D. & C. A. 177
Watts, *In re*, 34 L. T. 647 : 24 W. R. 701—V.-C. H. 3
—— *In re*, Smith *v.* Watts, 22 Ch. D. 5 : 52 L. J. Ch. 209 : 48 L. T. 167 : 31 W. R. 262—C. A. 441
Weadon *v.* Reading, Warren, *In re*, W. N. (1884), 112—Kay, J. 457
Webb v. Stenton, 11 Q. B. D. 518 : 52 L. J. 584 : 49 L. T. 432—C. A. . . . 422
Webster *v.* Patteson, 25 Ch. D. 626 : 53 L. J. Ch. 621 : 50 L. T. 252 : 32 W. R. 580—Kay, J. 660
Weldon *v.* Riviere, 53 L. J. Q. B. 448—Q. B. D. 61
—— *v.* Winslow, 13 Q. B. D. 784 : 53 L. J. Q. B. 528 ; 51 L. T. 643 : 33 W. R. 219—C. A. 61
Wells, *In re*, 49 L. T. 859 : 31 W. R. 764—Kay, J. 1009
Welply *v.* Buhl, 3 Q. B. D. 253 : 47 L. J. Q. B. 151 : 38 L. T. 115 : 26 W. R. 300—C. A. 824, 825
Werderman *v.* Société Générale d'Electricité, 19 Ch. D. 246 : 45 L. T. 514 : 30 W. R. 33—C. A. 68
Westhead *v.* Riley, 25 Ch. D. 413 : 53 L. J. Ch. 1153 : 49 L. T. 776 : 32 W. R. 273—Chitty, J. 719
Weston *v.* Davidson, W. N. (1882), 28—V.-C. H. 664
Wheatcroft *v.* Foster, E. B. & E. 737 : 27 L. J. Q. B. 277 : 31 L. T. O. S. 212 : 4 Jur. N. S. 896—Q. B. 347
Wheelwright *v.* Walker, 23 Ch. D. 752—Kay, J. 1008
Whistler *v.* Hancock, 3 Q. B. D. 83 : 47 L. J. Q. B. 152 : 37 L. T. 639 : 26 W. R. 211—Q. B. D. 32, 248, 847
Whitaker *v.* Robinson, W. N. (1877), 201—V.-C. H. 822
White *v.* Land and Water Co., W. N. (1883), 174—Field, J. 168
—— *v.* Mainwaring, 25 W. R. 253—Q. B. D. 347
Whitley *v.* Honeywell, 35 L. T. 517 : 24 W. R. 815—P. D. 141
Wilkes *v.* Guardians of the Poor of Dudley Union, 19 July, 1870, Rolls Lib.—M. R. 810
Wilkins, *In re*, Wilkins *v.* Rotherham, 27 Ch. D. 703 : 54 L. J. Ch. 188 : 33 W. R. 41—Pearson, J. 614
Williams *v.* Hopkins, Hopkins, *In re*, 18 Ch. D. 370 : 52 L. J. Ch. 736 : 48 L. T. 513 : 31 W. R. 495—Fry, J. 482
—— *v.* Preston, 20 Ch. D. 672 : 51 L. J. Ch. 927 : 47 L. T. 265 : 30 W. R. 555—C. A. 253, 257

Wil—You. PAGE

Willway, *In re*, 32 L. J. Ch. 226 : 1 N. R. 469—V.-C. W. 956
Wilmott *v.* Young, 44 L. T. 331 : 29 W. R. 413—M. R. 317
Wilson, *In re*, Wilson *v.* Alltree, 27 Ch. D. 242 : 53 L. J. Ch. 989 : 32 W. R. 897—Chitty, J. 616, 740
—— *v.* Church, 9 Ch. D. 552 : 39 L. T. 413 : 26 W. R. 735—M. R. . 66, 68, 134, 136
— *v.* De Coulon, 22 Ch. D. 841 : 53 L. J. Ch. 248 : 48 L. T. 514 : 31 W. R. 839—Fry, J. 295
Wintle, *In re*, L. R. 9 Eq. 373 : 21 L. T. 781 : 18 W. R. 394—M. R. . . 269
Wood *v.* Goodwin, W. N. (1884), 17—Mathew, J. 194
—— *v.* Scoles, L. R. 1 Ch. 369 : 35 L. J. Ch. 547 : 14 L. T. 470 : 12 Jur. 555 : 14 W. R. 621—L. JJ. 673
—— *v.* Wheater, 22 Ch. D. 281 : 52 L. J. Ch. 144 : 47 L. T. 440 : 31 W. R. 117—Chitty, J. 423
Woolley *v.* Colman, 21 Ch. D. 169 : 51 L. J. Ch. 854 : 46 L. T. 737 : 30 W. R. 769—Fry, J. 664
— *v.* Thorniley, Thorniley, *In re*, 53 L. J. Ch. 499 : 32 W. R. 539 : W. N. (1884), 83—Pearson, J. 244
Worraker *v.* Pryor, 2 Ch. D. 109 : 45 L. J. Ch. 273 : 24 W. R. 269—M. R. . 108
Wray *v.* Kemp, 26 Ch. D. 169 : 53 L. J. Ch. 1020 : 50 L. T. 552 : 32 W. R. 332—Chitty, J. 95
Wright *v.* Woods, Harvey, *In re*, 26 Ch. D. 179 : 53 L. J. Ch. 544 : 50 L. T. 554 : 32 W. R. 765—Chitty, J. 614

Y.

Yeatman *v.* Read, 35 L. J. Ch. 176 : 13 L. T. 580 : 14 W. R. 123—V.-C. K. 357
York *v.* Strowers, W. N. (1883), 174—Field, J. 175
Yorkshire Tannery, &c., Co. *v.* Eglinton Chemical Co., 54 L. J. Ch. 81 : 33 W. R. 162 : W. N. (1884), 200—Pearson, J. 146
Young, *Ex parte*, 19 Ch. D. 124 : 51 L. J. Ch. 141 : 45 L. T. 493 : 30 W. R. 330—C. A. 32
— *v.* Brassey, 1 Ch. D. 277 : 45 L. J. Ch. 142 : 24 W. R. 110—V.-C. H. 144

TABLE OF STATUTES.

PAGE

5 Will. & Mary, c. 20 (Bank of England) 104
8 & 9 Will. III. c. 11 (Bonds) 165
9 & 10 Will. III. c. 15 (Arbitration) 925
s. 1 926
6 Anne, c. 18 (Ruffhead) } (Production of *cestui que vie*) 932
6 Anne, c. 72 (Rev. Stat.) }
s. 1 . . . . . 932, 933, 934
ss. 2, 4 932
7 Anne, c. 20 (Middlesex Registry) 368
8 Geo. II. c. 13 (Hogarth's Act) 669
19 Geo. II. c. 37 (Marine Insurance), s. 1 245
24 Geo. II. c. 44 (Indemnity of Constables—notice of action), s. 6 94
7 Geo. III. c. 38 (Copyright) 669
13 Geo. III. c. 63 (Evidence), s. 44 300
17 Geo. III. c. 57 (Copyright in prints) 669
19 Geo. III. c. 70 (Removal of record of judgment of inferior Courts), s. 4 . . . 835
36 Geo. III. c. 52 (Legacy Duty) 39, 754, 874
s. 32 . . . . . 756, 934
37 Geo. III. c. 135 (Legacy Duty) 934
39 & 40 Geo. III. c. 36 (Bank of England) 451
ss. 1, 2 451
42 Geo. III. c. 116 (Land Tax), s. 67 938
44 Geo. III. c. 102 (*Habeas corpus ad testificandum*) 304
52 Geo. III. c. 101 (Charities, Sir Sam. Romilly's Act) 876, 881
s. 2 878
54 Geo. III. c. 56 (Protection to sculpture) 669
56 Geo. III. c. 60 (Unclaimed Stock) 973
s. 5 973
4 Geo. IV. c. 76 (Marriage), ss. 16, 17 592
s. 23 594
7 Geo. IV. c. 46 (Bankers) 363
s. 9 . . . . . 89, 104, 364
s. 13 363
10 Geo. IV. c. 44 (Metropolitan Police—Notice of action), s. 41 93
11 Geo. IV. and 1 Will. IV. c. 47 (Conveyance for payment of debts), ss. 11, 12 531
c. 65 (Property Law Amendment) 39, 940
s. 12 . . . . . 580, 940
ss. 14, 15 940
s. 16 . . . . . 580, 941
s. 17 . . . . . 580, 942
s. 18 941
s. 20 . . . . . 940, 941
s. 21 941
s. 31 . . . . . 940, 941, 942
s. 32 586
c. 68 (Land Carriers) 232
1 Will. IV. c. 22 (Witnesses), s. 2 300

PAGE

1 & 2 Will. IV. c. 41 (Special Constables—Notice of action), s. 19 . . . 93
c. 58 (Interpleader), s. 7 . . . . . 372, 386
3 Will. IV. c. 15 (Copyright in ramatic compositions) 669
3 & 4 Will. IV. c. 42 (Law Amendment) 925
s. 2 87
s. 16 165
s. 40 928
s. 41 929
c. 49 (Affirmations by Quakers, &c.) 11, 310, 311
c. 74 (Fines and Recoveries Abolition), ss. 33, 48 . . . 943
ss. 85, 87, 89 . . . 504
c. 82 (Chancery Process) 12, 311
4 & 5 Will. IV. c. 29 (Irish Securities) 491, 944
s. 2 944
6 & 7 Will. IV. c. 32 (Benefit Building Societies), s. 4 106
c. 85 (Marriage), s. 43 593
c. 86 (Registration of Births), s. 37 269
7 Will. IV. & 1 Vict. c. 73 (Banking Company) 104
s. 3 364
s. 24 . . . . . 376, 377
1 & 2 Vict. c. 62 (Renewal of Leases) 941
c. 77 (Affirmations in lieu of Oaths) 11, 311
c. 94 (Public Records), ss. 12, 13 268
c. 105 (Validity of Oaths) 6
s. 1 10
c. 110 (Execution of Judgments) 504
s. 11 . . . . . 366, 386, 392
s. 13 366
s. 14 . . . . . 366, 417
s. 15 . . . . . 366, 417, 418
s. 16 366
s. 17 . . . . . 366, 374
s. 18 366
s. 19 366
s. 20 501
s. 22 . . . . . 834, 835
2 & 3 Vict. c. 11 (Registration of *Lis Pendens*, &c.) 137, 504
ss. 1—6 366
s. 7 504
ss. 8—11 504
c. 60 (Debts), s. 1 531
c. 71 (Metropolitan Police: Notice of Action), s. 53 93
3 & 4 Vict. c. 77 (Grammar School Act) 881
c. 82 (Registration of Judgments, &c.), s. 1 . . . 366, 417, 418
s. 2 366
c. 90 (Infant Felons) 580
c. 92 (Registration of Births) 472, 475
ss. 9—15 269
4 & 5 Vict. c. 35 (Copyhold Act, 1841), ss. 73—75 944
5 Vict. c. 5 (Distringas), s. 4 698
s. 5 699
Schedule 1 875
5 & 6 Vict. c. 26 (Ecclesiastical Houses of Residence), ss. 8, 12 946
c. 45 (Copyright Amendment) 669
ss. 14, 16 670
c. 55 (Railways) 28

PAGE

5 & 6 Vict. c. 69 (Perpetuation of Testimony) 675
c. 94 (Defence Act, 1843), ss. 25—28 948
c. 97 (Notice of Action), s. 4 93
c. 100 (Copyright of Designs) 669
6 & 7 Vict. c. 23 (Copyhold Act, 1843), s. 14 944
c. 73 (Solicitors Act, 1843) 858
s. 37 . . . . . 867, 868, 869, 870, 871, 872
s. 38 . . . . . 867, 872
s. 39 . . . . . 867, 873
s. 40 . . . . . 867, 872, 873
s. 41 . . . . . 867, 871, 872
s. 42 867
s. 43 . . . . . 867, 869
c. 82 (Oaths abroad), s. 1 6
7 & 8 Vict. c. 12 (International Copyright) 669
c. 85 (Railways) 28
c. 86 (Solicitors) 858
c. 101 (Poor Law Amendment Act, 1844), s. 27 599
8 & 9 Vict. c. 16 (Companies Clauses Consolidation, 1845), s. 36 . 364, 376, 377
c. 18 (Lands Clauses Consolidation, 1845) 743, 912, 980
s. 7 916
s. 69 . . . . . 743, 754, 912, 914, 915
s. 70 . . . . . 913, 914
s. 71 916
s. 73 . . . . . 912, 914
s. 74 914
s. 76 . . . . . 912, 913, 914
s. 78 . . . . . 913, 914
s. 80 . . . . . 913, 914
s. 82 917
s. 83 917
s. 85 . . . . . 912, 913, 914
s. 86 912
s. 87 . . . . . 913, 914
c. 56 (Drainage) 950
c. 62 (Unclaimed Stock) 973
c. 70 (Church Building Amendment) 881
c. 87 (Smuggling: Notice of Action), s. 117 93
c. 100 (Treatment of Lunatics), s. 95 599
c. 113 (Documentary Evidence), s. 1 268
s. 2 269
s. 3 268
c. 118 (Inclosure Act, 1845), ss. 134, 137—140 950
9 Vict. c. 20 (Parliamentary Deposits) 754, 898, 902, 903
s. 2 . . . . . 898, 899
s. 3 . . . . . 898, 899, 904
s. 4 . . . . . 898, 899
s. 5 . . . . . 898, 900, 901
9 & 10 Vict. c. 95 (County Courts), s. 90 . . . . . 826, 827
s. 94 497
s. 138 93
10 & 11 Vict. c. 11 (Drainage) 950
c. 38 (Drainage) 950
c. 65 (Cemeteries Clauses. Registers of Burials), ss. 32, 33 . . 269
c. 96 (Trustee Relief Act) 755, 756, 884
s. 1 884

PAGE

11 & 12 Vict. c. 44 (Jervis's Act), s. 9 93
c. 119 (Drainage) 950
12 & 13 Vict. c. 67 (Sequestrators of Ecclesiastical Benefices) 383
c. 74 (Trustee Further Relief) 884
c. 103 (Poor), s. 16 599
c. 109 (Petty Bag Amendment) 737
13 & 14 Vict. c. 21 (Proof of Acts of Parliament), s. 7 268
c. 31 (Drainage) 950
c. 35 (Sir G. Turner's Act) 854
ss. 5—9 854
c. 43 (Chancery of Lancaster), s. 15 370
c. 60 (Trustee Act, 1850) 889
s. 7 890
s. 8 892
ss. 9, 10 890
ss. 11, 12 892
s. 13 891
s. 14 . . . . . 890, 891
s. 15 . . . . . 890, 891
s. 16 . . . . . 891, 892
s. 20 . . . . . 568, 892, 893, 894, 897
ss. 22—25 . . . . . 893, 894
s. 26 . . . . . 893, 895
s. 27 . . . . . 894, 895
s. 28 897
s. 29 . . . . . 568, 895
s. 30 . . . . . 568, 896
ss. 32—36 895
s. 37 889
s. 40 . . . . . 889, 1010
c. 61 (County Courts), s. 16 826
s. 22 708
c. 104 (Designs) 669
14 & 15 Vict. c. 88 (Solicitors) 858
c. 99 (Lord Brougham's Evidence Act), s. 7 268
s. 12 268
s. 14 . . . . . 268, 269, 470
s. 16 929
c. 104 (Episcopal and Capitular Estates), s. 7 946
15 & 16 Vict. c. 12 (International Copyright) 669
c. 51 (Copyhold Act, 1852), ss. 22, 39 944
c. 55 (Trustee Act, 1852) 889
s. 1 . . . . . 568, 896
s. 2 890
s. 3 893
ss. 4, 5 . . . . . 893, 894, 897
s. 6 . . . . . 893, 895, 897
ss. 8, 9 895
s. 13 568
c. 76 (Common Law Procedure Act, 1852), ss. 112, 114 337
c. 79 (Inclosure Act), s. 34 950
c. 85 (Burial) 881
s. 24 106
c. 86 (Chancery Improvement), s. 22 . . . . . 6, 7, 14
s. 44 64
ss. 45—47 457
16 & 17 Vict. c. 51 (Succession Duty) 567

PAGE

16 & 17 Vict. c. 78 (Oaths in Chancery), ss. 1, 2 . . . . . 6, 7
s. 3 6
s. 6 . . . . . 6, 7
c. 97 (Lunatic Asylums Act, 1853) ss. 94—104 599
c. 117 (Land Tax) 938
c. 134 (Burial) 106, 881
c. 137 (Charitable Trusts Act) 879
ss. 17, 18 875
s. 28 879
ss. 37, 39, 40 880
s. 43 876
s. 47 106
s. 48 879
s. 51 . . . . . 106, 879
17 & 18 Vict. c. 34 (Witnesses Abroad) 300, 303, 307
s. 2 . . . . . 303, 304
c. 82 (Chancery of Lancaster), s. 10 370
c. 87 (Burial) 881
c. 90 (Enrolment of Annuities) 496
c. 104 (Merchant Shipping Act, 1854), ss. 62—65 951
s. 107 268
s. 514 . . . . . 951, 952
c. 125 (Common Law Procedure Act, 1854) 931
ss. 3, 4 925
s. 5 . . . . . 925, 931
ss. 6, 7 925
s. 8 . . . . . 925, 931
ss. 9, 10 925
s. 11 . . . . . 850, 925
s. 12 . . . . . 925, 928
ss. 13, 14 925
s. 15 . . . . . 925, 930
s. 16 925
s. 17 . . . . . 925, 926
s. 20 . . . . . 13, 312
18 & 19 Vict. c. 15 (Registration of Judgments, &c.) 366, 496
ss. 2, 3 501
s. 6 137
s. 9 501
s. 12 504
c. 32 (Stannaries Act), ss. 9, 10 . . . . . 370, 371
c. 42 (Oaths Abroad), ss. 1, 2 6
s. 3 14
c. 43 (Infants Settlements) 39, 580, 594, 595, 597
s. 4 597
c. 91 (Merchant Shipping Amendment Act), s. 10 951
c. 117 (Ordnance Board Transfer) 948
c. 124 (Charitable Trusts) 879
ss. 10, 11 881
ss. 12, 15, 18 . . . . . 106, 879
s. 40 875
c. 128 (Burial) 881
19 & 20 Vict. c. 9 (Public Money Drainage) 950
c. 79 (Bankruptcy (Scotland) Act, 1856), ss. 47, 73, 140, 147, 174 . 268
c. 108 (County Court Act, 1856), s. 26 . . . . 347, 348, 349, 353
s. 38 . . . . . 826, 827
s. 40 . . . . . 708, 827

PAGE

19 & 20 Vict. c. 108 (County Court Act, 1856), s. 41 . . . . . 708, 828
s. 44 708
s. 49 . . . . . 497, 829
c. 119 (Marriage and Registration), s. 19 593
20 & 21 Vict. c. 57 (Sir R. Malins's Act), s. 1 504
c. 77 (Probate Court Act), s. 64 271
c. 81 (Burial) 881
c. clvii. (Mayor's Court, London, Procedure), s. 16 . . . 831, 832
ss. 17—19 . . 832
s. 20 . . . 831, 832
s. 48 . . . 833
s. 52 . . . 831, 832
21 & 22 Vict. c. 25 (Non-parochial Registers) 475
c. 94 (Copyhold Act, 1858), ss. 5, 13, 43—45 944
22 Vict. c. 1 (Burial) 881
c. 20 (Evidence Abroad) 300
22 & 23 Vict. c. 21 (Payment of Monies under Defence Acts), s. 8 . . . 948
c. 35 (Property Law Amendment: Trustees, L. St. Leonards' Act)
ss. 1—3 529
s. 13 . . . . . 952, 953
ss. 14, 15 895
s. 22 504
s. 29 486
s. 30 . . . . . 952, 954, 955
s. 32 491
c. 63 (Law Ascertainment facilities) 268, 813, 814
s. 3 815
23 & 24 Vict. c. 34 (Petition of Right) 683
ss. 1, 3 683
ss. 4, 5 . . . . . 683, 684
s. 6 685
s. 8 . . . . . 683, 684, 685
ss. 9, 13, 14 685
Sched. No. 1 683
2 683
4 684
5 685
c. 38 (Property Law Amendment, L. St. Leonards') 504
s. 1 366
s. 2 . . . . . 366, 413, 501
ss. 3—5 366
s. 6 529
s. 9 . . . . . 952, 955
s. 10 . . . . . 491, 954, 955
s. 11 491
s. 12 491
c. 59 (Universities, &c., Estates Extension Act), s. 4 . . . 944
c. 64 (Burial) 881
c. 106 (Lands Clauses Consolidation Act, 1860) 912
c. 112 (Defence Act, 1860), ss. 10, 11 949
s. 20 948
s. 21 . . . . . 948, 949
ss. 22—24, 29, 45, 46 948
c. 115 (Satisfaction of Judgments, &c.) 504
s. 2 . . . . . 137, 367, 414
c. 124 (Ecclesiastical Commission), ss. 29, 36—38 946
c. 126 (Common Law Procedure Act, 1860), ss. 3, 6 . . . 340

PAGE

23 & 24 Vict. c. 126 (Common Law Procedure Act, 1860), s. 11 340
s. 12 340
s. 17 340
c. 127 (Solicitors Act, 1860) 858
s. 28 860
c. 136 (Charitable Trusts) 879
ss. 2, 4, 8, 9 879
s. 12 . . . . . 106, 879
24 & 25 Vict. c. 3 (Unclaimed Stock), s. 8 973
c. 11 (Foreign Law Ascertainment) 268, 813
c. 100 (Offences against the Person), s. 153 28
c. 134 (Bankruptcy Act, 1861) 499, 500
s. 27 500
ss. 187, 192—194 500
25 & 26 Vict. c. 53 (Land Registry, L. Westbury), ss. 41—62 956
c. 63 (Merchant Shipping Amendment Act, 1862) 951
s. 54 952
c. 67 (Declaration of Title Act, L. Cranworth) 956
c. 68 (Copyright) 669
c. 89 (Companies Act, 1862) 104
s. 62 168
s. 69 839
s. 87 104
s. 95 104
ss. 122, 123 372
s. 133 (7) 104
s. 151 104
s. 195 104
s. 202 104
c. 96 (Acknowledgments by Married Women) 504
c. 100 (Burial) 881
c. 108 (Confirmation of Sales Act) 956
c. 112 (Charity Commissioners Jurisdiction) 879
27 & 28 Vict. c. 13 (Charitable Trust Deeds), s. 3 882
c. 32 (Banking Company—Public Officer) 364
c. 89 (Defence Act, 1864) 948
c. 97 (Registration of Births) 269
c. 112 (Judgments—Law Amendment) 366, 501, 504
s. 1 366
s. 3 413
ss. 4—6 415
c. 114 (Improvement of Land Act, 1864) 950
s. 21. 950
ss. 56, 69 500
c. 121 (Railways Construction Facilities Act) 918
s. 46 918
28 & 29 Vict. c. 78 (Mortgage Debenture Act, 1865) 957
s. 16 957
s. 40 491
ss. 42—47 958
c. 99 (County Courts, Equitable Jurisdiction), s. 1 . 585, 825, 884, 959
s. 3 826
s. 5 959
s. 9 . . . . 826, 829
c. 104 (Crown Suits), ss. 48, 49. 504
ss. 53—64 567
29 & 30 Vict. c. 57 (Charitable Uses Act) 882

PAGE

30 & 31 Vict. c. 47 (*Lis Pendens*) 139
s. 2 137
c. 48 (Sales by Auction), s. 5 543
s. 7 575
s. 8 543
c. 127 (Railways Companies Act, 1867) 918
s. 5 919
s. 6 . . . . . 919, 920
s. 7 922
s. 8 921
s. 9 922
ss. 10—16 923
s. 19 . . . . . 924, 925
s. 31 898
s. 36 912
c. 131 (Companies Act, 1867) 104, 959
s. 9 961
s. 10 960
s. 11 959
s. 13 . . . . . 961, 962, 964
s. 14 962
ss. 15, 16 971
s. 17 964
c. 132 (Investment of Trust Funds) 491
c. 142 (County Courts), ss. 1, 7 824
s. 8 . . . . . 825, 826
s. 9 . . . . . 825, 959
s. 10 . . . . . 825, 838
ss. 24, 25 . . . . . 825, 884
s. 26 884
s. 33 959
31 & 32 Vict. c. 37 (Documentary Evidence Act, 1868) 268
c. 40 (Partition Act, 1868) 647, 650
ss. 3—5 647
s. 9 . . . . . 64, 74, 647
s. 12 . . . . . 825, 959
c. 54 (Judgments Extension Act, 1868), ss. 1, 2 . . . . 369, 838
s. 5 838
c. 68 (Liquidation Act, 1868) 971
32 & 33 Vict. c. 56 (Endowed Schools Act) 879
c. 62 (Debtors Act, 1869) 395, 397, 403
s. 4 396
s. 5 401
s. 6 . . . . . 713, 714
s. 8 404
s. 27 496
c. 68 (Evidence—Further Amendment Act, 1869), s. 4 . . . 13, 312
s. 71 (Bankruptcy Act, 1869) 499, 500
ss. 125, 126 500
c. 83 (Bankruptcy Court), s. 20 500
c. 106 (East India Stock), s. 16 491
c. 110 (Charity Trusts) 879
s. 8 880
ss. 9, 10, 11 879
33 & 34 Vict. c. 14 (Naturalization—Evidence). s. 12 268
s. 12 (5) 268
c. 20 (Mortgage Debenture Act, 1870) 957

PAGE

33 & 34 Vict. c. 23 (Abolishing Forfeitures for Felony) 972
s. 28 972
c. 28 (Attorneys and Solicitors) 858
ss. 4—15 867
c. 34 (Charitable Funds Investment) 491
c. 49 (Evidence Amendment Act, 1870) 13, 312
c. 56 (Limited Owners' Residences) 950
c. 61 (Life Assurance) 972
ss. 3, 14 972
ss. 17 268
ss. 18, 21, 22 973
c. 69 (Statute Law Revision Act, 1870), s. 1 973
Schedule 973
c. 71 (National Debt), s. 55 973
c. 75 (Elementary Education Act, 1870) 879
ss. 37—39 105
s. 83 268
c. 77 (Juries Act, 1870) 337
ss. 6, 8, 9, 10, 12, 16 338
s. 18 337
s. 19 338
s. 23 339
c. 78 (Tramways Act, 1870) 974
s. 12 974
c. 79 (Post Office, Evidence), s. 21 268
c. 93 (Married Women's Property Act, 1870), s. 10 1011
c. 97 (Stamp Act, 1870) 529, 764, 840, 889
ss. 33, 80 269
ss. 70—78 568
Sched. 269, 537, 567, 595, 764, 890
34 & 35 Vict. c. 4 (Stamps) 889
c. 33 (Burial) 881
c. 58 (Life Assurance) 972
s. 1 972
35 & 36 Vict. c. 24 (Charitable Trustees Incorporation Act, 1872) 879
s. 13 . . . . . 882, 883
s. 14 875
c. 41 (Life Assurance) 972
s. 4 973
c. 44 (Chancery Funds Act, 1872) 740, 754
ss. 3, 6 747
s. 26 . . . . . 884, 934
Sched. 2, Part II. 884, 934
c. 79 (Public Health Act, 1872) ss. 4, 5, 9 105
36 & 37 Vict. c. 12 (Custody of Infants Act) 580, 978
s. 1 978
c. 50 (Places of Worship Sites Act) 881
c. 57 (Consolidated Fund (Permanent Charges Redemption) Act, 1873) 979
ss. 2, 3, 5 979
c. 66 (Supreme Court of Judicature Act, 1873), s. 24, subs. 5 849, 870, 922
s. 24, subs. 7 . . 849
s. 25, subs. 6 . . 884
s. 25, subs. 8 692, 693, 696, 705, 706, 718
s. 33 820
s. 34 226, 323, 672, 820

PAGE

36 & 37 Vict. c. 66 (Supreme Court of Judicature Act, 1873), s. 34, subs. 2 . . 874
ss. 36, 42 . . 820
ss. 49, 50 . . . 453
s. 56 . 327, 340, 341, 344, 925
s. 57 258, 327, 340, 342, 507, 925
ss. 58, 59 . . 925
s. 60 . . . 540
s. 61 . . . 269
s. 62 . . . 6, 7
s. 65 . . . 823
s. 66 . 258, 462, 507, 732, 800
s. 67 . . 824, 825
s. 76 . 6, 7, 303, 307, 838, 874
ss. 77, 82, 84 . . 6, 7
s. 87 . . . 858
s. 90 . . 826, 831
s. 100 . . . 11
c. 71 (Salmon Fisheries :—Documentary Evidence), s. 64 . . . 268
37 & 38 Vict. c. 42 (Building Societies), s. 21 106
c. 68 (Solicitors Act, 1874) 858
ss. 7—9 860
c. 78 (Vendor & Purchaser Act, 1874), s. 1 . . . . 543, 576
s. 2 . . . 269, 543, 576
s. 2, (3) 569
(4) 569
(5) 569
s. 3 . . . . 543, 576
s. 9 654
c. 88 (Births and Deaths Registration Act, 1874), s. 38 . . . 269
38 Vict. c. 23 (Income Tax), s. 3 563
38 & 39 Vict. c. 22 (Post Office :—Documentary Evidence), s. 9 268
c. 31 (Railway Companies) 918
c. 36 (Artisans Dwellings Act, 1875) 980
Sched. rr. 14—21 980
rr. 23—25 980
c. 55, s. 7 105
c. 60 (Friendly Societies), s. 21 106
c. 77 (Supreme Court of Judicature Amendment Act, 1875),
s. 10 . . 481, 482, 603
s. 11 . . . 820
subs. 2 . . 820
s. 12 . . . 623
s. 14 . . . 858
s. 20 . . . 338
c. 79 (Legal Practitioners Act, 1875), s. 2 867
c. 83 (Local Loans Act, 1875) 980
s. 25 980
c. 87 (Land Transfer Act, 1875) 980
ss. 5, 6 980
s. 57 980
ss. 74—77 980
s. 93—97 980
s. 114 980

PAGE

39 Vict. c. 16 (Income Tax), s. 6 563
39 & 40 Vict. c. 17 (Partition Act, 1876) 647
s. 3 . . . . . 64, 647, 648
s. 4 . . . . . 647, 650
s. 6 647
c. 18 (Treasury Solicitor), s. 1 . . . . . 103, 268
c. 36 (Customs Consolidation Act, 1876) 981
s. 44 981
c. 45 (Industrial and Provident Societies—Documentary Evidence), s. 24 268
c. 59 (Appellate Jurisdiction Act, 1876), ss. 3, 5, 8, 9, 11 . . . 630
40 Vict. c. 13 (Income Tax), s. 6 563
44 & 41 Vict. c. 18 (Settled Estates Act, 1877) 981, 994
s. 2 981
ss. 4—9 981
s. 10 . . . . . 981, 983
s. 11 . . . . . 981, 982, 983
s. 12 . . . . . 981, 983
ss. 13—15 981
s. 16 983
s. 17 1008
ss. 18, 19, 22 983
ss. 23, 24 . . . . . 981, 983
s. 25 981
s. 26 . . . . . 981, 991, 992
s. 27 . . . . . 981, 992
ss. 28, 29 981
s. 30 . . . . . 991, 993
s. 31 993
s. 32 . . . . . 982, 984
s. 33 981
ss. 34, 35 . . . . . 981, 983, 994
s. 36 . . . . . 981, 983
s. 37 . . . . . 981, 983, 994
ss. 39, 40 983
s. 41 . . . . . 983, 984, 995
ss. 46—48 981
s. 49 . . . . . 981, 984, 985, 987, 991
s. 50 . . . . . 987, 988
s. 51 . . . . . 987, 988, 989
s. 52 . . . . . 987, 988
ss. 54, 57 981
c. 21 (Prisons : Documentary Evidence), s. 51 268
c. 25 (Solicitors Act, 1877) 858
c. 26 (Companies Act, 1877) 104, 269
s. 4 . . . . . 959, 960, 961, 971
s. 4, (1) 961
s. 4, (2) 960, 961
s. 5 959
41 Vict. c. 15, s. 8, (Income Tax) 563
41 & 42 Vict. c. 54 (Debtors Act, 1878) 396, 403
42 & 43 Vict. c. 11 (Banker's Book Evidence Act, 1879) 269
c. 21, s. 15 (Income Tax) 563
c. 31 (Burial) 881
c. 76 (Companies Act, 1879) 104
c. 78 (Supreme Court of Judicature (Officers) Act, 1879), s. 7 . . 6, 7
s. 14 . . 367

PAGE

43 Vict. c. 14, s. 4 (Income Tax) 563
c. 19 (Companies Act, 1880) 104
43 & 44 Vict. c. 20, s. 50 (Income Tax) 563
c. 41 (Burial) 881
c. 46 (Universities and Colleges Estates Amendment Act, 1880), ss. 2—4 944
44 Vict. c. 2 (Burial) 881
c. 12, s. 19 (Income Tax) 563
44 & 45 Vict. c. 34 (Burial) 881
c. 41 (Conveyancing Act, 1881) 996
s. 3 . . . . . 543, 576
s. 3 (3) 569
(6) 569
s. 5 996
(1) 572, 996
(2) 572, 573, 996
s. 7 567
s. 9 (1)—(8 997
(9) 997, 998
(10)—(14) 997
s. 14 (1)—(4) 999
s. 25 . . . . . 664, 998
s. 31 . . . . . 536, 537, 895
(2) 537
(3) 537
s. 32 . . . . . 536, 895
ss. 33, 34 . . . . . 536, 537, 895
ss. 35—38 536
s. 39 . . . . . 62, 998
(1) 998
ss. 41—43 586
s. 69 (3)—(6) 572, 996
c. 44 (Solicitors Remuneration Act, 1881), ss. 2—4 867
c. 68 (Supreme Court of Judicature Act, 1881), s. 12 693
s. 24 858
45 & 46 Vict. c. 21 (Places of Worship Sites Amendment Act, 1882) 881
c. 38 (Settled Land Act, 1882) 595, 994, 999
s. 6—9 1001
s. 10 . . . . . 1001, 1002
s. 11 . . . . . 1001, 1002, 1004
s. 12—14 1001
s. 15 . . . . . 1001, 1002
ss. 16, 17 1001
s. 18 1004
s. 21 . . . . . 491, 1003
(1) 1001
s. 22 . . . . . 491, 1003, 1004
ss. 23, 24 491
s. 26 (1) 1006
(2) (ii) 1006
(2) (iii) 1007
(3) 1007
s. 31 1007
s. 32 . . . . . 491, 914, 994
s. 33 491
s. 34 . . . . . 491, 1007
ss. 35, 35 (2) 1002

PAGE

45 & 46 Vict. c. 38 (Settled Land Act, 1882).
s. 36 1008
s. 37 1002
s. 38 1008
ss. 39—43 1008
s. 44 1009
s. 45 1008
s. 46 (3) 1000
s. 47 1001
s. 48 950
ss. 56, 59, 60 1009
s. 61 62
s. 63 1010
s. 64 1008
Sched. 1008
c. 39 (Conveyancing Act, 1882) 502, 996
s. 2 . . . . . 497, 502, 503, 504, 505, 567
(1) 497
(3) 497, 503
(4) 502, 503
(8) 503
(9) 503
(10) 503
(11) 497, 503
s. 5 436
s. 7 504
c. 40 (Copyhold Act, 1882) 669
c. 41 s. 9 (Income Tax) 563
c. 75 (Married Women's Property Act, 1882) 60, 61, 586, 988, 1010
s. 1 (1) 61
(2) 61, 978
(3) 61
(4) 61
s. 2 . . . . . 61, 778
s. 5 62
ss. 6—10 61
s. 11 . . . . . 1010, 1011
ss. 12—15 61
s. 16 . . . . . 61, 1010
s. 17 . . . . . 61, 1011
s. 18 61
s. 19 61
s. 21 61
s. 24 61
46 Vict. c. 10, s. 8 (Income Tax) 563
46 & 47 Vict. c. 29 (Supreme Court of Judicature (Funds, &c.) Act, 1883) . . 740
ss. 1, 2 740
c. 39 (Statute Law Revision Act, 1883) 972
s. 1, Sched. 972
c. 49, (Statute Law Revision and Civil Procedure Act, 1883) 64, 457, 854
s. 4 675
c. 52 (Bankruptcy Act, 1883) 36, 386, 499
s. 5 499
s. 6 . . . . . 38, 499
ss. 7, 8 499
s. 9 . . . . . 37, 499
s. 10 499
(2) 37

PAGE

46 & 47 Vict. c. 52 (Bankruptcy Act, 1883).
ss. 11—14 499
ss. 18—20 499
s. 21 . . . . . 37, 499
ss. 22, 23 499
ss. 28—30 37
s. 30 (3) 37
s. 45 (1) 386
s. 49 (*c*) (1) 499
s. 54 37
s. 57 (2) 37
ss. 66—71 . . . . . 37, 105
s. 70 (9) 37
s. 83 . . . . . 37, 105
s. 95 38
s. 103 401
s. 125 (4) 38
(10) 38
s. 146 (1) 386
c. 57 (Patents, Designs, and Trade Marks Act, 1883) 665
s. 7 (2), (3), (6) 666
s. 9 (2), (3) 666
s. 11 (2), (3), (4) 666
s. 18 (3), (4), (6), (7) 666
s. 23 666
s. 26 790
s. 29 (1) 666
(2) 667
(5) 668
(6) 669
s. 30 668
s. 31 669
s. 38 666
ss. 62—74 671
s. 90 . . . . . 668, 672
s. 92, 92 (2) 672
47 & 48 Vict. c. 14 (Married Women's Property Act, 1884) 1010
c. 18 (Settled Land Act, 1884) 999, 1000
s. 5 (1) 1008
s. 7 1010
s. 8 1000
c. 25, s. 5 (Income Tax) 563
c. 54 (Yorkshire Registries Act, 1884) 368
ss. 3, 20 497
s. 23 497
c. 61 (Supreme Court of Judicature Act, 1884), s. 2 925
s. 9 . . 327, 340, 342
s. 10 . 340, 341, 925
s. 11 . . 340, 925
s. 16 . . 303, 307
48 Vict. c. 1, s. 2 (Income Tax) 563

TABLE OF ORDERS AND RULES.

RULES OF THE SUPREME COURT, 1883.

ORDER I. (Form and Commencement of Action).
Rule **1**: 95

ORDER II. (Writ of Summons and Procedure, &c.).
Rule **1**: 96, 107, 150, 693, 718
r. **2**: 95, 96
r. **3**: 96, 97, 98, 99
r. **4**: 100, 150
r. **5**: 96, 100, 101, 102, 147
r. **8**: 50, 96, 97, 295, 374

ORDER III. (Indorsement of Claim).
Rule **1**: 97, 107, 150, 693, 718
rr. **2, 3**: 107, 693, 718
r. **4**: 107, 126
r. **6**: 98, 107, 121, 156, 165, 173, 180, 203, 211, 219, 220, 228, 230
r. **7**: 98, 107, 114, 150, 847
r. **8**: 107, 175, 182

ORDER IV. (Indorsement of Address): 150, 170
Rule **1**: 2, 97, 125, 126, 147, 432, 433, 864
r. **2**: 2, 97, 126, 147, 432, 433, 864
r. **3**: 2, 99, 126, 432, 864
r. **4**: 2, 432, 433

ORDER V. (Issue of Writs of Summons).
Rules **1—3**: 127
r. **4**: 98, 127, 722
r. **5**: 99, 820
r. **8**: 96
r. **9**: 96, 722, 820, 826, 858
r. **9** (*a*): 23, 25, 96, 127, 128
r. **9** (*b*): 432, 433, 457, 458, 834, 835, 881, 883, 899, 913, 916, 936, 945, 948, 950, 957, 972, 979, 996, 997, 998, 1011
r. **9** (*c*): 23, 686, 826, 834, 835, 926, 932

ORDER V. (Issue of Writs of Summons) —*continued.*
Rule **9** (*d*): 25, 689, 698, 858, 867, 876, 890, 903, 917, 918, 938, 940, 943, 944, 951, 953, 954, 956, 959, 973, 978, 981, 1010
r. **9** (*e*): 96, 128
r. **10**: 96
rr. **11, 12**: 128
r. **13**: 1, 128, 164
r. **14**: 128

ORDER VI. (Concurrent Writs).
Rule **1**: 131, 150, 151
r. **2**: 130

ORDER VII. (1. Disclosure by Solicitors and Plaintiffs).
Rule **1**: 185
r. **2**: 30, 31, 187
(2. Change of Solicitors).
r. **3**: 864, 865, 866

ORDER VIII. (Renewal of Writ).
Rule **1**: 131, 132, 151
r. **2**: 131
r. **3**: 131, 132

ORDER IX. (Service of Writ of Summons).
Rule **1**: 140
r. **2**: 140, 141, 169
r. **3**: 60, 62, 140, 166
r. **4**: 38, 45, 140, 166
r. **5**: 52, 56, 140, 167
rr. **6, 7**: 30, 32, 140, 167
r. **8**: 30, 140, 168
r. **9**: 140, 169
r. **15**: 97, 149, 169, 170

ORDER X. (Substituted Service): 141, 142.

ORDER XI. (Service out of Jurisdiction): 151
Rule **1**: 144
rr. **1** (*a*), **1** (*b*): 143, 152

ORDER XI. (Service out of Jurisdiction) —*continued.*
Rule **1** (*c*): 143, 146, 152
r. **1** (*d*): 143, 152
r. **1** (*e*): 143, 145, 152
r. **1** (*f*): 143, 152
rr. **1** (*g*), **2**: 143, 146, 152
r. **4**: 143, 144
r. **5**: 144, 152
r. **6**: 144, 146, 147, 170
r. **7**: 144, 147, 170

ORDER XII. (Appearance): 237
Rule **1**: 97, 154
r. **2**: 97, 154
rr. **4**—**6**: 154
r. **7**: 154, 179, 823
r. **8**: 154, 155, 164
r. **9**: 154, 156, 158, 249, 864
r. **10**: 2, 155, 187, 864
r. **11**: 155, 156, 187, 864
r. **12**: 155, 163, 864
r. **13**: 154, 155
r. **14**: 154, 164
r. **15**: 30, 32, 155, 360
r. **16**: 30, 32, 155
r. **17**: 154, 155
r. **18**: 140, 155, 395, 858
r. **22**: 154, 157
rr. **25, 26**: 155, 158, 160
r. **27**: 155, 158, 160, 249
r. **28**: 155, 158, 159, 174
r. **29**: 155, 158, 159
r. **30**: 72, 149, 155

ORDER XIII. (Default of Appearance).
Rule **1**: 38, 47, 52, 59, 60, 165, 166, 167, 171
r. **2**: 164, 166, 175
r. **3**: 165, 171, 317
r. **4**: 165, 171, 174, 317
rr. **5, 6**: 165, 172, 173, 174, 317, 350
r. **7**: 165, 172, 173, 174, 317
r. **8**: 165, 173, 174, 317
r. **9**: 165, 174, 317
r. **10**: 165, 177, 317, 358
r. **11**: 165, 171, 317
r. **12**: 165, 172, 173, 203, 317, 318
rr. **13, 14**: 165

ORDER XIV. (Leave to sign Judgment and Defend where Writ specially Indorsed): 173, 187, 219, 220, 222, 223, 351
Rule **1**: 180, 181, 182, 213
r. **2**: 180
r. **3**: 180, 181
rr. **4**—**6**: 180

ORDER XV. (Application for an Account): 157, 165, 166, 175, 182, 453
Rule **1**: 175
r. **2**: 175, 182

ORDER XVI. (Parties): 35
Rule **1**: 63, 65
r. **2**: 63, 65, 66, 235
rr. **3**—**5**: 63
r. **6**: 63, 816
r. **7**: 63
r. **8**: 63, 65
r. **9**: 63
r. **11**: 39, 63, 65, 66, 67
r. **12**: 63, 65, 66
r. **13**: 64, 65, 66, 133, 135
r. **14**: 30, 31, 32, 179, 187
r. **15**: 30, 32
r. **16**: 38, 39, 60, 979
r. **17**: 52, 54
r. **18**: 38, 46, 83, 155, 156, 439
r. **19**: 38, 46, 439, 687, 689
r. **20**: 28, 38, 39, 52
r. **21**: 34, 39, 52, 285, 854
r. **22**: 33, 35
r. **23**: 33, 34, 35
r. **24**: 33, 34, 35
rr. **25**—**27**: 33, 35
r. **28**: 33, 35, 36
r. **29**: 26, 33, 35
rr. **30, 31**: 33, 35
r. **32**: 64, 65
rr. **33**—**38**: 63
r. **39**: 64, 65
r. **40**: 64, 74, 84, 161, 461, 466
r. **41**: 38, 52, 64, 74, 83, 155, 461
r. **42**: 64, 74, 78, 82, 461
r. **43**: 64, 74, 75, 461
r. **44**: 38, 52, 64, 74, 75, 78, 461
rr. **45, 46**: 64
r. **47**: 468
r. **48**: 68, 69, 70, 799
r. **49**: 68, 71, 155, 161
r. **50**: 68, 72
r. **51**: 69, 72
r. **52**: 69, 73
r. **53**: 69, 73, 197
r. **54**: 69
r. **55**: 69, 73

ORDER XVII. (Change of Parties by Death, &c.).
Rules **1, 2**: 36, 85.
r. **3**: 85
r. **4**: 36, 85
r. **5**: 36, 85, 90, 155, 161
rr. **6, 7**: 38, 52, 85, 91
r. **8**: 85, 91, 851
rr. **9, 10**: 85, 92

ORDER XVIII. (Joinder of Causes of Action).
Rule 1 : 129, 131, 327
r. 2 : 129, 130
r. 3 : 36, 129
r. 4 : 60, 129
rr. 5, 6 : 129
r. 8 : 129, 201
r. 9 : 129, 196, 201

ORDER XIX. (Pleading Generally).
Rule 2 : 190, 204, 221
r. 3 : 235, 237
r. 4 : 98, 190, 191, 204, 221, 236, 855
r. 5 : 190
r. 6 : 191, 201, 228, 238
r. 7 : 191, 202, 238, 668
r. 8 : 191, 202, 668
r. 9 : 190
r. 10 : 166, 173, 190, 204, 318, 325, 330, 436
r. 11 : 1, 2, 121, 190, 203, 204, 221, 236, 238, 239, 240, 243
r. 12 : 191, 221, 222
r. 13 : 39, 52, 191, 245, 260
r. 14 : 191
r. 15 : 191, 260
r. 16 : 191
r. 17 : 191, 260
r. 18 : 191, 243
r. 19 : 191, 260
r. 20 : 191
r. 21 : 192
rr. 22, 23 : 192, 260
rr. 24—26 : 192
r. 27 : 192, 196, 200, 238, 240, 241

ORDER XX. (Statement of Claim).
Rule 1 : 121, 203
r. 1 (*a*) : 107, 156, 203, 211, 228
r. 1 (*b*) : 156, 203, 228, 248, 249
r. 1 (*c*) : 203, 204, 248, 249
r. 1 (*d*) : 190, 203, 204
r. 1 (*e*) : 203
r. 4 : 203
r. 5 : 98, 203, 204
r. 6 : 203, 204, 220, 235
r. 7 : 203, 220, 235
r. 8 : 203

ORDER XXI. (Defence and Counterclaim).
Rule 1 : 220, 222
rr. 2—5 : 220
r. 6 : 190, 220, 222, 239, 249
r. 7 : 190, 220, 222, 249
r. 8 : 220, 222
r. 9 : 220
r. 10 : 235
r. 11 : 190, 235, 236

ORDER XXI. (Defence and Counterclaim) —*continued.*
Rule 12 : 161, 235, 237
r. 13 : 155, 161, 235, 237
r. 14 : 190, 235
r. 15 : 197, 235, 237
rr. 16, 17 : 235
rr. 19, 20 : 221
r. 21 : 221, 234

ORDER XXII. (Payment into and out of Court and Tender), 183, 188, 224, 743
Rule 1 : 182, 188, 223, 224, 225, 847
rr. 2, 3 : 223, 224
r. 4 : 183, 189, 224
r. 5 (*a*) : 183, 224
rr. 5 (*b*), (*c*), 6 : 223
r. 6 (*a*) : 224, 225, 847
r. 6 (*b*) : 224, 225
r. 6 (*c*) : 223
r. 7 : 183, 184, 223, 224, 225
r. 8 : 223, 816
rr. 9, 11 : 223
r. 12 : 183, 224, 741
r. 17 : 491, 756

ORDER XXIII. (Reply and Subsequent Pleadings).
Rule 1 : 190, 196, 239, 240
r. 2 : 239, 242
r. 3 : 190, 196, 239, 242
r. 4 : 235, 239, 240
r. 5 : 239, 243
r. 6 : 239

ORDER XXIV. (Matters arising pending the Action) : 191
Rule 1 : 192
r. 2 : 190, 192, 193, 195, 235, 238, 240
r. 3 : 192, 194

ORDER XXV. (Proceedings in lieu of Demurrer) : 191, 685
Rule 1 : 243
r. 2 : 243, 244
r. 3 : 243
r. 4 : 196, 244, 245, 847
r. 5 : 244

ORDER XXVI. (Discontinuance).
Rule 1 : 197, 236, 255, 256, 257, 331
r. 2 : 255, 329, 331
r. 3 : 255
r. 4 : 255, 256, 847

ORDER XXVII. (Default of Pleading) : 191
Rule 1 : 247, 248
rr. 2, 3 : 247, 249, 317
r. 4 : 247, 250, 317, 350

ORDER XXVII. (Default of Pleading)—*continued.*
Rule **5**: 247, 250, 317
r. **6**: 247, 251, 317, 350
rr. **7, 8**: 247, 251, 317
r. **9**: 247, 252, 317
r. **10**: 317
r. **11**: 248, 252, 317, 318, 354
r. **12**: 248, 251, 252, 317, 318, 354
r. **13**: 239, 248, 253
r. **14**: 248, 252, 317, 318
r. **15**: 177, 248, 253, 358

ORDER XXVIII. (Amendment): 191
Rule **1**: 132, 196
r. **2**: 133, 196, 197, 199
r. **3**: 196, 197, 199, 235, 238
r. **4**: 196, 238
r. **5**: 196, 199
r. **6**: 196, 238, 240
r. **7**: 133, 135, 196, 198, 238
r. **8**: 133, 197
r. **9**: 133, 197, 198
r. **10**: 133, 197
r. **11**: 358
r. **12**: 149, 196
r. **13**: 133, 196

ORDER XXX. (Summons for Directions): 184
Rule **1**: 184, 189, 324, 327
r. **2**: 184, 189
r. **3**: 184

ORDER XXXI. (Discovery and Inspection): 677
Rule **1**: 788, 790, 792
rr. **2, 3**: 788
r. **4**: 788, 792
r. **5**: 30, 788, 792, 800
r. **6**: 788, 794
r. **7**: 788, 793
r. **8**: 185, 788, 794
r. **9**: 789, 794
r. **10**: 789, 795
r. **11**: 789, 795, 796
r. **12**: 797, 799
r. **13**: 797, 801, 802
r. **14**: 797
r. **15**: 797, 804
r. **16**: 797
r. **17**: 798, 804, 805, 806
r. **18**: 798, 806, 807
r. **19**: 798
r. **20**: 789, 793, 798, 804
r. **21**: 197, 393, 395, 789, 795, 796, 797, 798, 812
r. **22**: 393, 789, 795, 797, 798, 799, 812
r. **23**: 395, 789, 798, 812, 858
r. **24**: 260, 789

ORDER XXXI. (Discovery and Inspection)—*continued.*
Rule **25**: 789, 790, 798, 801
r. **26**: 185, 743, 789, 790, 792, 798, 801
r. **27**: 789, 791, 798, 801
r. **27A** (R. S. C. Oct. 1884, r. **1**): 790, 791 799
r. **28**: 790, 799

ORDER XXXII. (Admissions).
Rule **1**: 246, 264
rr. **2, 3**: 264, 266
r. **4**: 246, 264, 265, 266
r. **5**: 264, 265
r. **6**: 191, 245, 317, 318, 453, 652
r. **7**: 264, 267
r. **8**: 272
r. **9**: 264, 272

ORDER XXXIII. (Issues, Inquiries, and Accounts).
Rule **2**: 175, 258, 453, 466, 652
r. **3**: 506, 523
r. **4**: 506, 522
r. **5**: 506, 523
rr. **6, 7**: 506
r. **8**: 507, 658
r. **9**: 507

ORDER XXXIV. (Special Case; Issues of Fact without Pleadings): 854, 855
Rule **1**: 853, 854, 855
r. **2**: 853, 854
r. **3**: 853, 855, 856
r. **4**: 39, 61, 853, 856
r. **5**: 61, 853, 857, 932
r. **6**: 853
r. **7**: 853, 854
r. **8**: 854, 856
rr. **9—12**: 259

ORDER XXXV. (Proceedings in District Registries): 463
Rule **1**: 171, 249
r. **2**: 172, 355
r. **3**: 355
rr. **4, 5**: 362
r. **5** (*c*): 421
r. **5** (*d*): 422
r. **5** (*e*): 418
r. **6**: 144, 418
r. **13**: 154, 179, 187, 188, 823
rr. **13** (1), (2), (3): 187
r. **14**: 154, 179, 187, 188, 823
r. **15**: 154, 187, 188, 823
r. **16**: 154, 187, 822, 823
r. **17**: 187, 823, 824
r. **18**: 187, 823, 864
r. **20**: 187, 823
r. **22**: 4

ORDER XXXVI. (Trial): 346, 677, 925
Rule 1: 324
r. 1A
(R. S. C. Oct. 1884, 2): 324
r. 2: 173, 323, 325, 336
r. 3: 323, 327
r. 4: 323, 328
r. 5: 323, 328
r. 6: 323, 327, 336
r. 7 (*a*): 323, 327, 336, 340, 342
rr. 7 (*b*), (*c*), (*d*): 336, 337
r. 8: 323, 328
r. 9: 323
r. 10: 925
r. 11: 324, 325
r. 12: 253, 323, 324, 325
r. 13: 324, 325
r. 13A
(R. S. C. Oct. 1884, r. 5): 324, 325
r. 14: 324, 350
r. 15: 329, 350
r. 16: 324, 329
r. 17: 324
r. 18: 325
r. 19: 325, 328, 329, 350
r. 20: 329
r. 21: 607, 608
r. 22: 329
r. 22A
(R. S. C. Oct. 1884, r. 3): 329
r. 22B
(R. S. C. Oct. 1884, r. 4): 329
r. 24: 329, 330
rr. 25—28: 329
r. 29: 329, 330
r. 30: 329, 330
r. 31: 332, 335, 354
r. 32: 235, 332, 335, 355
r. 33: 332, 335, 358
r. 34: 332, 333, 350
r. 35: 306, 350
rr. 36, 37: 350
rr. 39, 40: 332
r. 41: 332, 339
r. 42: 332, 339
r. 43: 327
r. 45: 340, 341
r. 46: 340, 341, 343
r. 47: 340, 341
r. 48: 340, 343
r. 49: 283, 340, 343
r. 50: 340, 342, 343, 344
r. 51: 340
r. 52: 340, 345, 346
r. 53: 340
rr. 54, 55: 340, 345
rr. 56, 57: 350
r. 58: 336, 350

ORDER XXXVII. (Evidence, &c.)
Rule 1: 276, 277, 282, 283, 284, 287, 293
r. 3: 269, 442
r. 4: 269, 270, 288
r. 5: 276, 283, 284, 287, 288, 289, 293, 313
r. 6: 276, 293
r. 6A
(R. S. C. Oct. 1884, r. 5): 276, 283, 285, 298
r. 7: 276
rr. 8, 9: 276, 283
rr. 10, 11: 276, 283, 286, 290, 446
r. 12: 276, 283, 286, 290, 291, 316, 446
r. 13: 276, 283, 286, 290, 308, 309, 316, 446
r. 14: 276, 283, 286, 290, 316, 446
r. 15: 276, 283, 286, 290, 309, 446
rr. 16, 17: 276, 283, 286, 290, 446
r. 18: 276, 284, 286, 290, 446, 452
r. 19: 276, 284, 286, 290, 446
r. 20: 276, 284, 286, 290, 300, 301, 446
rr. 21, 22: 276, 281, 283, 286, 290, 446
r. 23: 281, 283, 284, 286, 290, 446
r. 24: 277, 280, 284, 286, 290, 292, 446
r. 25: 441
r. 26: 300, 301, 305, 306
r. 27: 300, 301, 302, 306, 307
r. 28: 301, 441
rr. 29—34: 301
rr. 35—38: 675
r. 39: 276, 284, 285, 442
rr. 40—42: 276, 285, 286, 442
rr. 43, 44: 276, 284, 285, 286, 290, 442, 446
(R. S. C. Rules, Feb. 4, 1884):
r. 45: 276, 284, 285, 442, 446
(R. S. C. Oct. 1884, r. 7):
r. 46: 276, 284, 285, 286, 290, 442, 446
(R. S. C. Feb. 4, 1884):
r. 47: 276, 285, 290, 442, 446
(R. S. C. Oct. 1884, r. 8):
r. 48: 276, 285, 286, 290, 442, 446
(R. S. C. Oct. 1884, r. 9):
r. 49: 276, 285, 286, 290, 442, 446
(R. S. C. Feb. 4, 1884):
r. 50: 285, 442
(R. S. C. Oct. 1884, r. 10):

ORDER XXXVIII. (Affidavits and Depositions).
Rule 1: 276, 441, 442, 687, 689
r. 2: 4, 276
r. 3: 3, 4, 523
r. 4: 6
r. 5: 6, 523
r. 6: 6, 7, 14, 512

ORDER XXXVIII. (Affidavits and Depositions)—*continued.*
Rule **7**: 4
r. **8**: 4, 5
r. **9**: 8
r. **10**: 4, 5
r. **11**: 4, 276
r. **12**: 4
r. **13**: 9
r. **14**: 4
rr. **16**, **17**: 7
r. **18**: 452
r. **19**: 687
r. **20**: 15, 441, 522
r. **21**: 15, 441
r. **22**: 507, 516
r. **23**: 15, 441, 512, 516, 732
r. **24**: 15, 441
rr. **25—27**: 15, 276, 277, 278, 279
r. **28**: 276, 277, 280, 287, 288, 289
r. **29**: 276, 277, 281
r. **30**: 4, 276, 277, 325

ORDER XXXIX. (Motion for New Trial).
Rule **1**: 347, 348, 349
r. **2**: 348
rr. **3**, **4**: 348, 349
r. **5**: 348
rr. **6**, **7**: 348, 349
r. **8**: 348

ORDER XL. (Motion for Judgment).
Rule **1**: 317, 318
r. **2**: 317, 320, 321
rr. **3—5**: 317, 319
r. **6**: 317, 320
r. **7**: 317, 319, 320, 321
r. **8**: 317, 319
r. **9**: 318, 320
r. **10**: 318

ORDER XLI. (Entry of Judgment).
Rule **1**: 355, 356
r. **3**: 355
r. **4**: 171, 251, 355
r. **5**: 17, 355, 393, 795, 797, 800
r. **6**: 171, 347, 355, 356
r. **7**: 347, 355, 356
rr. **8—10**: 355

ORDER XLII. (Execution), 387
Rule **1**: 359, 393
r. **2**: 359
r. **3**: 359, 372, 386, 393, 395
r. **4**: 359, 395, 404
r. **5**: 359, 423, 719
r. **6**: 359, 395, 404, 426, 719
r. **6** (*a*): 359, 426
rr. **6** (*b*), (*c*): 359
r. **7**: 359, 395, 401, 719
rr. **8**, **9**: 360, 362

ORDER XLII. (Execution)—*continued.*
Rule **10**: 30, 32, 360, 362
rr. **10** (*a*), (*b*), (*c*): 360
r. **11**: 360, 373, 387, 396, 407, 422, 428
r. **12**: 1, 360, 372, 381, 383, 385, 386, 396, 406, 427
r. **13**: 2, 360, 374, 397
r. **14**: 360, 373, 374, 381, 383, 384, 396, 406, 424, 427, 428
r. **15**: 360, 374
r. **16**: 360, 373, 374, 620
r. **17**: 360, 365, 372, 386, 393, 620
rr. **17** (*a*), (*b*): 360, 372, 386
r. **18**: 360, 375, 620
r. **19**: 361
rr. **20**, **21**: 361, 428, 429
r. **22**: 361
r. **23**: 361, 362, 375
r. **23** (*a*): 361
r. **23** (*b*): 60, 361
r. **23** (*c*): 361
r. **23** (*d*): 361, 363, 364
rr. **24—25**: 361
r. **27**: 361, 366
r. **28**: 361, 399
r. **29**: 361
r. **30**: 361, 654, 705
r. **31**: 361, 362, 395, 405
r. **32**: 361, 362, 421
rr. **33**, **34**: 362, 421

ORDER XLIII. (Writs of *Fieri Facias*, *Elegit*, and Sequestration): 372, 386
Rule **1**: 372, 386
r. **2**: 381
rr. **3**, **4**: 383
r. **5**: 381, 382, 383
r. **6**: 404, 406, 407
r. **7**: 405, 620

ORDER XLIV. (Attachment): 620
Rule **1**: 396
r. **2**: 395

ORDER XLV. (Attachment of Debts): 620
Rule **1**: 420, 422
r. **2**: 420, 423
rr. **3—7**: 420
rr. **8**, **9**: 421

ORDER XLVI. (Charging Orders, Distringas, and Stop Orders): 620
Rule **1**: 417, 418
rr. **2**, **3**: 699
r. **4**: 699, 700, 701
r. **5**: 699, 700
r. **6**: 699
r. **7**: 699, 700
r. **8**: 699
r. **9**: 699, 701

ORDER XLVI. (Charging Orders, Distringas, and Stop Orders)—*continued.*
Rule **10**: 699, 701
r. **11**: 699, 700
r. **12**: 419, 702
r. **13**: 702

ORDER XLVII. (Writ of Possession): 719
Rule **1**: 393, 423, 424
r. **2**: 393, 423, 424, 425
r. **3**: 423

ORDER XLVIII. (Writ of Delivery).
Rule **1**: 393, 427, 428
r. **2**: 427

ORDER XLIX. (Transfers and Consolidation).
Rule **1**: 819, 820, 821
r. **2**: 819
r. **3**: 819, 820, 822
r. **4**: 819
r. **5**: 819, 822
r. **6**: 819
r. **7**: 820, 821, 822
r. **8**: 816

ORDER L. (I. Interlocutory Orders. As to *Mandamus*, Injunctions, or *Interim* Preservation of Property, &c.).
Rule **1**: 784
r. **1A**: 692
(R. S. C. Oct. 1884, r. 11.)
r. **2**: 784, 785
r. **3**: 668, 784, 785, 786
r. **4**: 784
r. **5**: 337, 784
r. **6**: 692, 693, 705, 706, 717, 718, 784, 785, 786
r. **7**: 784
r. **9**: 455
r. **10**: 541
r. **11**: 692
r. **12**: 692
r. **15A**: 362, 717
(R. S. C. Oct. 1884, r. 12.)
(II. Receivers.)
r. **16**: 717, 722
r. **17**: 717, 727, 728
rr. **18, 19**: 717, 732, 733
r. **20**: 717, 732, 735
r. **21**: 717, 732
r. **22**: 717, 732, 735
(R. S. C. Oct. 1884, r. 13.)
r. **24**: 585
(R. S. C. Oct. 1884, r. 14.)

ORDER LI. (I. Sales by the Court).
Rule **1**: 539, 540
r. **2**: 539, 543, 544

ORDER LI. (I. Sales by the Court)—*continued.*
Rule **3**: 539, 563
r. **4**: 539, 549
r. **5**: 539, 550
r. **6**: 539, 555
(II. Conveyancing Counsel.)
rr. **7—12**: 494
r. **13**: 494, 495, 653

ORDER LII. (Motions and other Applications): 23
Rule **1**: 686
r. **2**: 401, 686, 687, 860, 925
r. **3**: 686, 687
r. **4**: 395, 686, 797, 860, 925, 930, 931
r. **5**: 16, 23, 24, 318, 686, 687, 860
rr. **6, 7**: 686
r. **8**: 175, 436, 686, 689
r. **9**: 24, 686, 687
r. **11**: 378, 388, 397, 401, 402, 829, 830, 833
r. **12**: 398
r. **14**: 133, 134, 193, 197, 279, 408, 428, 429, 435, 444
r. **15**: 358
r. **16**: 19, 25, 26, 689, 690
r. **17**: 18, 25, 689
r. **18**: 25, 914, 916
rr. **19—21**: 25, 954, 955
r. **22**: 954, 955

ORDER LIII. (*Mandamus.*)
Rules **1—15**: 705

ORDER LIV. (Applications and Proceedings at Chambers): 26
Rules **1, 2**: 26, 430
r. **3**: 430
r. **4**: 27, 430, 431, 432, 433
rr. **5—7**: 430
r. **8**: 430, 439
r. **9**: 430, 431, 441
r. **10**: 27
r. **12** (*b*): 144
r. **12** (*l*): 418

ORDER LV. (Chambers in the Chancery Division): 431
Rule **2**: 431
,, **(1)**: 453, 769, 915
,, **(2)**: 453, 769, 915
,, **(3)**: 453, 761, 902
,, **(4)**: 39, 937, 938
,, **(5)**: 453, 884, 887, 889
,, **(6)**: 453, 899, 900, 902, 903
,, **(7)**: 453, 913, 914
,, **(8)**: 568, 889, 896, 897
,, **(9)**: 39, 580, 941, 942
,, **(10)**: 39, 453, 580, 594, 597

ORDER LV. (Chambers in the Chancery Division)—*continued.*
Rule **2** (**11**): 945
,, (**12**): 39, 580, 937
,, (**14**): 540, 577
,, (**15**): 871
,, (**16**): 607, 609, 610
,, (**17**): 197, 200, 667, 668, 856
r. **3**: 434, 456, 457, 459, 462, 819
rr. **3** (*a*)—**3** (*g*): 456
r. **4**: 456, 458, 819
rr. **4** (*a*)—**6**: 456
r. **7**: 456, 459
r. **8**: 457
r. **9**: 74, 457, 461, 462
r. **10**: 457
r. **11**: 457, 820
r. **12**: 457
rr. **13**, **14**: 879
r. **15**: 175, 431, 457
r. **16**: 6, 283, 431, 441, 446, 447
r. **17**: 283, 431, 441
r. **18**: 431, 600
r. **19**: 452
r. **20**: 430, 432, 433
r. **21**: 430, 432, 433, 437
r. **22**: 430, 432, 435
r. **23**: 430, 432, 439
r. **24**: 441, 443
r. **25**: 580, 581, 582
rr. **25** (*a*)—**25** (*c*): 580
r. **26**: 580, 594, 597
r. **26** (*a*)—**27**: 580
r. **28**: 463
r. **29**: 431, 579
r. **30**: 463
r. **31**: 74, 83, 464
r. **32**: 463
r. **33**: 74, 463, 464
r. **34**: 538
r. **35**: 74, 75, 76, 461, 464, 601
r. **36**: 74, 461, 464
r. **37**: 452
rr. **38**, **39**: 430
r. **40**: 465, 466, 601
rr. **41**, **42**: 465, 601
r. **43**: 465, 466, 601
r. **44**: 467, 469, 476
r. **45**: 467
r. **46**: 467, 469
r. **47**: 467, 468, 475
r. **48**: 4, 467
r. **49**: 467
r. **50**: 467, 477
r. **51**: 467
r. **52**: 467, 477, 478
r. **53**: 467
r. **54**: 441, 451, 467

ORDER LV. (Chambers in the Chancery Division)—*continued.*
Rule **55**: 467
r. **56**: 467, 480, 481
r. **57**: 467, 485
r. **58**: 467, 476
r. **59**: 468, 488
r. **60**: 468, 782
r. **61**: 468
r. **62**: 468, 488
r. **63**: 468
r. **64**: 491
rr. **65**, **66**: 600
r. **67**: 600, 601
r. **68**: 507, 600, 602, 735
r. **69**: 441, 600, 605
r. **70**: 600, 605, 606
r. **71**: 600, 605, 606
r. **72**: 607, 609
r. **73**: 508
r. **74**: 431, 453
r. **75**: 490, 491, 495, 510, 516, 534, 543, 555

ORDER LVII. (Interpleader).
Rule **1**: 677, 678
r. **1** (*a*): 677, 680
r. **1** (*b*): 677, 681
r. **2**: 677, 680
rr. **2** (*a*)—**3**: 677
r. **4**: 677, 678
r. **5**: 677, 678, 681
r. **6**: 677, 679
rr. **7**, **8**: 677
r. **9**: 677, 854
rr. **10**, **11**: 677
r. **12**: 677, 681
rr. **13**, **14**: 678
r. **15**: 678, 681

ORDER LVIII. (Appeals to the Court of Appeal).
Rule **1**: 621, 624
r. **2**: 622, 624, 625
r. **3**: 622, 624
r. **4**: 622, 627, 628
r. **5**: 622
r. **6**: 622, 626, 627
r. **7**: 622, 626
r. **8**: 622, 624, 629
rr. **9**, **10**: 622, 623
r. **11**: 622, 627
rr. **11** (*a*), (*b*): 622
rr. **12**, **13**: 622, 627
r. **14**: 622
r. **15**: 622, 623, 626
r. **16**: 366, 621, 622
r. **17**: 621, 623, 627
rr. **18**, **19**: 623

ORDER LIX. (Divisional Courts).
Rule 1 (*h*): 854

ORDER LX. (Officers).
Rule 3: 750
r. 4: 550, 561, 722, 738

ORDER LXI. (Central Office).
Rule 1: 136, 496, 750, 942
r. 5: 6, 7
r. 6: 268, 269
r. 7: 17, 268, 269, 270
rr. 10, 11: 924
r. 13: 497
r. 14: 722
r. 15: 260, 925
r. 19: 1
r. 21: 129
r. 22: 136, 366, 413, 496
r. 23: 136, 366, 414, 496, 502
r. 23 (*a*): 503
rr. 23 (*b*), (*c*): 504
r. 25: 496
r. 28: 4, 270
r. 30: 808
r. 31: 260, 925

ORDER LXII. (Registrars of the Chancery Division).
Rules 1—6: 356
r. 7: 356, 357
rr. 8—10: 356
r. 11: 356, 357
rr. 12, 13: 356
r. 14: 356, 357
r. 15: 356
r. 16: 357, 740
r. 17: 357
r. 18: 18, 25, 357, 689

ORDER LXIII. (Sittings and Vacations).
Rules 4, 12—15: 454

ORDER LXIV. (Time): 431
Rule 3: 197
r. 4: 190, 197
r. 5: 190, 197, 801
r. 6: 837
r. 7: 135, 159, 193, 196, 197, 198, 204, 240, 349, 452, 804, 809
r. 8: 193, 196, 198, 204, 240, 278
r. 11: 16, 326, 430, 436, 437
r. 14: 925, 930

ORDER LXV. (Costs): 617
Rule 1: 613
r. 2: 236, 613
r. 4: 347, 613
r. 6: 837, 838
r. 7: 837, 840
rr. 8—10: 614

ORDER LXV. (Costs)—*continued.*
Rule 12: 613
r. 13: 38, 47, 52, 59, 620
r. 14: 613
r. 15: 925
rr. 16, 17: 615
r. 18: 615, 617
r. 19: 616
rr. 20, 21: 615
r. 22: 495, 614, 615
r. 23: 613
rr. 24, 25: 879
r. 26: 954, 955
r. 27 (Special Allowances and General Regulations): 616
(1): 4, 191, 614, 615
(2): 191, 615
(3): 614, 615
(4): 614, 616
(5): 4, 616
(6), (8): 616
(9)—(12): 614, 616
(13): 616
(15): 4, 614 616
(16): 431, 441, 616
(17): 616, 804
(18): 616, 800, 804, 805
(19): 689, 888
(20): 4, 190, 203, 431, 616
(21): 613, 616
(22): 431
(23): 431, 616
(24): 193, 198, 204, 240, 278, 431, 614, 616
(25): 6, 7, 616
(26): 524, 616
(27), (28): 615
(29): 614, 616
(31), (32): 197, 613, 616
(33)—(35): 615
(36): 453, 495, 614, 616
(38): 614
(39)—(41): 616, 619
(43): 616
(44)—(46): 614, 616
(47)—(52): 616
(54): 4, 799
(55), (56): 615
(57): 615, 871
(58): 615, 616

ORDER LXVI. (Notices, Printing, Paper, Copies, Office Copies, Minutes, &c.).
Rule 2: 448, 449, 463, 488, 490, 491, 516, 919, 920
r. 3: 190, 197, 277, 284, 290, 794, 919
r. 4: 4
r. 5: 284, 290

ORDER LXVI. (Notices, Printing, Paper, Copies, Office Copies, Minutes, &c.) —*continued.*
Rule **6** : 277, 284
r. **7** : 4, 197, 277, 284, 290, 853, 855
rr. **7** (*c*)—(*f*), (*h*), (*i*) : 4
r. **7** (*j*) : 4, 692, 709
r. **7** (*k*) : 5
r. **7** (*m*) : 190

ORDER LXVII. (Service of Orders, &c.).
Rule **1** : 17, 394
r. **2** : 16, 18, 19, 23, 430, 436, 688, 690
r. **4** : 16, 19, 23, 166, 173, 175, 190, 204, 318, 325, 330, 430, 688, 690, 864
r. **5** : 16, 19, 22, 430, 436, 688, 690
r. **6** : 16, 19, 23, 141, 394, 423, 436, 687, 688, 690
r. **7** : 16, 19, 23, 430, 436, 688, 690
r. **8** : 16, 19, 23
r. **9** : 16, 166, 326, 437, 690

ORDER LXVIII.
Rule **3** : 707

ORDER LXIX. (Arrest of Defendant under s. 6 of the Debtors Act, 1869).
Rule **1** : 713
r. **2** : 713, 714
r. **3** : 713, 714, 715
r. **4** : 713, 716
r. **5** : 713, 714
rr. **6, 7** : 713

ORDER LXX. (Effect of Non-compliance).
Rule **1** : 149, 196
r. **2** : 149, 151, 163, 177, 196
r. **3** : 149, 163, 178, 196, 254, 404, 688, 697, 704, 708, 712, 716, 873

ORDER LXXII. (General Rules).
Rule **2** : 50, 867

Appendix A. (Part I.) (Forms of Writs of Summons, &c.).
Form No. **1** : 2, 96, 149
No. **2** : 97
No. **3** : 98
No. **4** : 99
Nos. **5, 6** : 100
No. **7** : 101
No. **8** : 102
Nos. **9, 10** : 147
No. **18** : 132
No. **19** : 128

Appendix A. (Part II.) (Forms of Entry of Appearance).
Form No. **1** : 154, 155, 439
No. **2** : 154, 156

Appendix A. (Part II.) (Forms of Entry of Appearance)—*continued.*
Forms Nos. **3, 4** : 158, 159
No. **5** : 71, 161
No. **6** : 90, 161
No. **7** : 161, 237
No. **8** : 46, 155, 156, 439

Appendix A. (Part III.) (General Indorsements on Writs of Summons).
Section I.: 107
Form No. **1** : 205, 226
No. **2** : 206
No. **3** : 673
No. **4** : 207, 226, 651, 656
No. **5** : 207, 227, 664
No. **6** : 207
No. **7** : 209
No. **8** : 209
No. **9** : 210, 227, 651
Section II.: 109—113
Section III.: 114
Section IV.: 114—120, 211, 212, 213, 214, 215, 216, 217, 219, 231, 232, 651, 656, 666, 670, 693, 705
Section VII.: 104, 107, 126

Appendix B. (Notices, &c.).
Form No. **1** : 70
No. **2** : 237
No. **3** : 183, 189
No. **4** : 183, 224
No. **5** : 194
No. **6** : 788, 792
No. **7** : 789, 794
No. **8** : 480, 797, 801
No. **9** : 797, 804
No. **10** : 798, 805, 806
No. **11** : 264, 266
No. **12** : 264, 265
No. **13** : 265
No. **14** : 272
No. **15** : 259
No. **16** : 324, 325
No. **17** : 332, 339
No. **19** : 255
No. **21** : 429
No. **22** : 700
No. **23** : 20, 437
No. **25** : 422
No. **26** : 680
No. **27** : 699

Appendix C. (Forms of Statement of Claim to be used pursuant to Ord. XIX. r. 5) : 190, 203
Section I.: 203
Section II.: 205
Form No. **1** : 205, 226

Appendix C. (Forms of Statement of Claim to be used pursuant to Ord. XIX. r. 5)—*continued.*
Section II.—*continued.*
Form No. **2**: 205
No. **3**: 206, 673
No. **4**: 206
No. **5**: 207, 226, 656
No. **6**: 207, 227, 664
No. **7**: 207
No. **8**: 208
No. **9**: 208
No. **10**: 209
No. **11**: 209
No. **12**: 210, 227, 651
Nos. **13, 14**: 210
Section IV.
Form No. **1**: 121, 229, 232
No. **2**: 122, 232
No. **3**: 122, 228, 232
No. **4**: 122, 228, 232
No. **5**: 122, 228
No. **6**: 123, 228, 232
Nos. **7, 8**: 123, 229, 232
No. **9**: 124, 234
Nos. **10, 11**: 124, 230, 234
No. **12**: 125
Section V.: 231
Form Nos. **1, 2**: 211
Nos. **3—6**: 212
Nos. **7, 8**: 213
Nos. **9, 10**: 214
Section VI.
Form No. **1**: 214, 232
No. **2**: 215, 232
Nos. **3, 4**: 215, 233
No. **5**: 215
No. **6**: 216, 233, 666
No. **7**: 216, 233, 670
No. **8**: 216, 233, 670
Nos. **9—11**: 217, 234
Nos. **12, 13**: 218
Nos. **14, 15**: 219
Section VII.
Form No. **1**: 125, 234
No. **2**: 219, 234
Appendix D. (Forms of Defence to be used pursuant to Order XIX. r. 5): 190
Section I.: 221, 236
Section II.: 205, 210, 226
Form No. **1**: 207, 651, 656
No. **2**: 207, 656, 664
Section IV.: 211, 228, 229
Section V.: 231, 232
Section VI.: 217, 218, 232, 666, 670
Section VII.: 219
Section VIII.: 238, 239
Appendix E. (Forms of Reply, &c., to be used pursuant to Order XIX. r. 5): 190
Section I.: 239, 241, 244
Section II.: 241, 244
Section III.: 245
Appendix F. (Forms of Judgment).
Form No. **1**: 171, 249, 351
No. **2**: 172, 250, 351
No. **3**: 173, 351
No. **4**: 173, 250, 351
No. **5**: 182, 351
Nos. **6, 7**: 352
No. **8**: 344, 346, 353
No. **9**: 344, 346, 353
No. **10**: 354
No. **11**: 352
Nos. **12, 13**: 353
No. **14**: 255, 351
No. **15**: 194, 351
No. **16**: 184, 351
Nos. **17, 18**: 354
Appendix G. (Forms of *Præcipe*): 360
Form No. **1**: 372
No. **2**: 386
No. **3**: 381
No. **4**: 383
No. **5**: 385
No. **6**: 406
No. **7**: 424
No. **8**: 427
No. **10**: 396
No. **11**: 382
No. **12**: 350
No. **13**: 828
No. **14**: 707
No. **16**: 305
No. **17**: 293
No. **18**: 645, 651
No. **19**: 135
No. **20**: 132
No. **21**: 300, 301, 306
No. **22**: 330
No. **23**: 624
No. **25**: 346, 853, 857, 932
No. **26**: 82
No. **28**: 75
Appendix H. (Forms of Writs): 360
Form No. **1**: 373, 374, 620
No. **2**: 375
No. **3**: 387
No. **4**: 381
No. **5**: 383
No. **6**: 384
No. **7**: 385
No. **8**: 424

Appendix H. (Forms of Writs)—*continued.*
Form No. **10**: 427
No. **11**: 428
No. **12**: 396
No. **13**: 406
No. **14**: 382
No. **15**: 833

Appendix J. (Forms of *Subpœna*, &c.).
Form No. **1**: 300, 301
No. **2**: 300, 306, 445
No. **3**: 300, 306
No. **4**: 300, 302
No. **5**: 300, 307
No. **6**: 300, 302
No. **7**: 300, 307
No. **8**: 350
No. **9**: 828
No. **11**: 707
No. **13**: 294, 295, 296

Appendix K.
Form No. **1**: 27, 431
No. **3**: 185, 189
No. **4**: 184
No. **6**: 180
No. **7**: 180, 181, 222
Nos. **8, 9**: 180, 181
No. **10**: 134
Nos. **12, 13**: 202
No. **14**: 72
No. **15**: 248
No. **16**: 790
No. **17**: 799
No. **20**: 131, 144
No. **21**: 141
No. **23**: 69
No. **27**: 418
No. **28**: 418
No. **29**: 862
No. **31**: 713
No. **32**: 341
No. **33**: 342
No. **35**: 288
No. **37a**: 298
No. **37b**: 298
No. **38**: 421
No. **39**: 422
No. **50**: 681
No. **51**: 678
No. **52**: 681
No. **53**: 681
No. **54**: 681
No. **55—57**: 681

Appendix L.
Form No. **1**: 441, 443, 444
No. **2**: 467, 468
No. **3**: 467, 475

Appendix L.—*continued.*
Form No. **4**: 477
No. **5**: 467, 477, 479, 487
No. **6**: 467, 478
No. **7**: 467, 481
No. **8**: 467
No. **9**: 468, 782
No. **10**: 600, 601, 602
No. **11**: 510, 515
Nos. **12, 13**: 516
No. **14**: 717, 733
No. **15**: 543
No. **16**: 555
No. **17**: 488
No. **18**: 490
No. **19**: 491
No. **20**: 534
No. **21**: 717, 722
No. **22**: 717, 732
Amended R. S. C. Oct. 1884, 13 App. No. 3.
No. **23**: 493
No. **24**: 495
No. **25**: 432, 433, 434, 435
No. **26**: 607
No. **27**: 608

Appendix O: 437

ORDER AS TO SUPREME COURT FEES, 1884.

Schedule No. **1**: 128
No. **2**: 130, 132, 135
No. **3**: 70
No. **5**: 301, 306
No. **6**: 373, 381, 382, 383, 387, 396, 407, 408, 424, 428, 707, 711, 828, 832
No. **8**: 433
No. **9**: 435
No. **10**: 185
No. **11**: 26, 431, 433, 443, 617
No. **15**: 294
No. **16**: 683
No. **17**: 71, 439
No. **20**: 4
No. **21**: 4
No. **25**: 271, 809
No. **28**: 855
No. **29**: 4, 290, 390, 398, 408, 809
No. **30**: 919
No. **34**: 700
No. **42**: 83, 142, 175, 248, 249
No. **44**: 129

ORDER AS TO SUPREME COURT FEES, 1884—*continued.*

Schedule No. **46** : 157, 809
Nos. **48—51** : 290
No. **52** : 321, 330, 607, 625, 857
No. **53** : 339
Nos. **55**, **56** : 26, 689
No. **57** : 356, 607, 689
No. **58** : 171, 182, 249, 256, 356
Nos. **59—60** : 453
No. **61** : 175, 246, 258, 453
No. **62** : 453
No. **65** : 868
No. **66** : 180, 185, 248, 418, 453, 687
No. **67** : 131, 134, 144, 193, 408, 428, 429
No. **68** : 358
No. **69** : 531, 604
No. **70** : 505, 604
No. **71** : 603, 604
No. **72** : 507, 604, 660, 673, 735
No. **73** : 489, 604, 660
No. **74** : 489, 604
No. **75** : 604
No. **76** : 468, 604
No. **78** : 968
No. **81** : 604, 968
Nos. **88—91** : 343
Nos. **102—103** : 618
No. **104** : 741
No. **105** : 742
No. **106** : 183, 188, 224, 225, 741, 744, 898, 912, 935, 945, 974
No. **107** : 741
No. **109** : 764
Nos. **110**, **111** : 137, 366
No. **112** : 366, 414
No. **113** : 137
Nos. **114—117** : 366, 414, 503
No. **118** : 366, 505
No. **121** : 367
No. **126** : 468, 548
No. **135** : 561

Page (of Official Order) **12** : 531, 603, 604, 673
p. **13** : 507, 531, 603, 604, 660, 673, 735
p. **14** : 531, 604, 673, 735

ORDER AS TO FEES AND PERCENTAGES, JULY, 1884.

Page (of Official Order) **4** : 26, 70, 128, 130, 132, 135, 185, 294, 301, 306, 373, 381, 382, 383, 387, 396, 407, 408, 424, 428, 431, 433, 435, 443, 617, 683, 707, 711, 828, 832
p. **5** : 4, 71, 271, 439, 809
p. **6** : 4, 290, 390, 398, 408, 855, 919
p. **7** : 83, 130, 142, 248, 249, 700
p. **8** : 26, 290, 321, 330, 339, 607, 625, 689, 809, 857
p. **9** : 131, 134, 144, 180, 182, 185, 193, 246, 248, 249, 256, 258, 343, 356, 358, 408, 418, 428, 429, 453, 489, 505, 507, 531, 603, 604, 607, 660, 673, 687, 689, 735, 868, 968
p. **10** : 618
p. **11** : 183, 188, 224, 225, 741, 742, 744, 764, 898, 912, 935, 945, 974
p. **12** : 137, 366, 367, 414, 468, 548
p. **13** : 561

SUPREME COURT FUNDS RULES, 1884 : 224, 357, 740, 741, 884, 887.

Rule **1** : 1, 2
r. **2** : 1, 740
r. **3** : 740
r. **5** : 564, 742, 751, 886, 937
r. **6** : 564, 757, 758, 761, 767, 769, 773, 886, 888, 900, 903, 937, 946, 948, 975, 995
r. **7** : 742, 757, 886
r. **8** : 564, 742, 767, 774, 886
r. **9** : 742, 767, 886

SUPREME COURT FUNDS RULES, 1884—*continued.*

Rule **10**: 564, 742, 767, 886, 913, 915, 937, 946, 948, 995
r. **11**: 767, 946
r. **12**: 767, 771
rr. **13**—**15**: 767
r. **16**: 752, 767, 783
r. **17**: 752, 768, 783
r. **18**: 492, 505, 506, 572, 768
r. **19**: 760, 761, 763
r. **20**: 746, 747, 768
r. **21**: 762, 768, 769
r. **22**: 564, 742
r. **23**: 453
rr. **24**, **25**: 564, 751, 773, 937, 946, 948, 995
r. **26**: 564, 751, 773, 937, 946, 948
r. **27**: 751, 773
r. **29**: 743
r. **30**: 188, 224, 743, 744, 745, 746, 747, 753, 790, 886, 898, 899, 912, 934, 935, 937, 945, 974, 975
r. **31**: 743, 744
r. **33**: 224, 743
r. **35**: 188, 224, 743
r. **36**: 743, 745, 746, 753
r. **37**: 189, 743, 745, 746, 747, 887
r. **38**: 743, 745, 746, 747
r. **39**: 743, 912
r. **40**: 743, 744, 945
r. **41**: 743, 744, 884, 886
r. **42**: 744, 747, 748, 756
r. **44**: 183, 225, 768, 790, 791, 799
r. **45**: 756, 757, 758, 768
r. **46**: 768, 913, 915, 995
r. **47**: 757, 768, 775
r. **48**: 611, 760, 764, 766, 768, 770, 776
r. **52**: 768, 771, 781
r. **54**: 754
rr. **55**, **56**: 758, 760
rr. **57**, **58**: 761
r. **59**: 756, 761
r. **60**: 756
r. **61**: 762, 768, 770, 780, 781
r. **62**: 768, 782
r. **63**: 768, 769
r. **64**: 768, 782
rr. **65**, **66**: 769
r. **67**: 618, 769, 771
r. **68**: 586, 761, 763
r. **69**: 747, 748, 754
rr. **70**, **71**: 748, 754
r. **72**: 754, 756
r. **73**: 754, 755, 756, 934, 935, 936
r. **74**: 754, 755, 756
r. **75**: 755, 757
r. **76**: 753, 755

SUPREME COURT FUNDS RULES, 1884—*continued.*

Rule **77** (*a*): 754
r. **77** (*b*): 898
r. **77** (*f*): 755
r. **78**: 754
r. **78** (*c*): 756
r. **79**: 754
r. **80**: 754
r. **81**: 754
r. **82**: 754
r. **83**: 754
r. **84**: 754
r. **85**: 754
r. **94**: 769, 781
r. **95**: 761: 765
r. **96**: 752
r. **99**: 741
r. **100**: 741, 742, 757, 760
r. **101**: 741
r. **103**: 746
r. **111**: 740

APPENDIX.

No. **1**: 751
No. **2**: 757, 767
No. **3**: 767, 773, 774
No. **5**: 744, 745, 898, 899, 974
No. **6**: 746, 899, 975
No. **7**: 188, 189, 224, 743, 790
No. **11** (*a*): 183
No. **11** (*b*): 225
No. **11** (*c*): 791
No. **12**: 760, 768, 776

CHANCERY FUNDS AMENDED ORDERS, 1874: 740.

Rule **4**: 753
r. **5**: 884, 887
r. **6**: 884
r. **7**: 884
r. **8**: 884
r. **9**: 884, 888
r. **10**: 884
r. **11**: 888
r. **16**: 750
r. **17**: 2

RULES OF PRACTICE MASTERS, 1880, 1881, 1882: 3, 128, 134, 135, 141, 156, 162, 356.

ADDITIONAL RULES OF PRACTICE MASTERS, MARCH, 1884: 128, 132, 157, 433.

RULE OF PRACTICE MASTERS, NOVEMBER 5, 1884: 61.

TABLE OF SUMMARIES OF RULES AND ORDERS ARRANGED ALPHABETICALLY.

	PAGES
ADMINISTRATION of estates and trusts	455—457
Admissions by notice	264
Amending pleadings	196—197
Appeals to the Court of Appeal	621—623
Appearance:	154—155
default of, proceedings in	164—166
recovery of land in action for	158
Arrest under Debtors Act	713
Attachment, writ of	395
Attachment of debts	420—421
Bankrupts—proceedings by and against	36—37
Carrying over money and securities in Court	757—758
Chambers, proceedings at	
Accounts	506—507
Administration of estates and trusts	455—457
Attendance of parties	465
Chief Clerk's certificate, the	600
Claims	467—468
Conveyancing Counsel of the Court	494—495
Evidence	441
Infants	580
Prosecution of judgment, directions as to	464
Sales by the Court	539—540
Summons, the	431
Summons, originating, the	432
Charitable Trusts Act, 1853	879—880
Chief Clerk's certificate	600
Claim, statement of	203
Conveyancing counsel, reference to	494—495
Costs, taxation of	614—616
Security for	837
Counterclaim and set-off	235—236
Default of appearance, proceedings in	164—166
Of pleading	247—248
Defence, the	220—221
Delivery, writ of	426
Demurrer, proceedings in lieu of	243—244
Deposit and investment of money in Court	753—755
Detention and inspection of property	784
Directions, summons for	184
Discovery of documents	797—799
Discovery by interrogatories	788—790
Discontinuance	255
District Registry, removal from	187
Distringas (*see* Restraining transfer of stock or shares)	699
Elegit, writ of	386
Entry of judgment	355

PAGE

Evidence : by affidavit at trial 277
Chambers, at 441
Examination of witnesses . . . . . 283—284
Examiners of the Court . . . . . 284—285
Execution : modes of enforcing judgments 359
Execution generally . . . . . 359—362
Fieri facias, writ of 372
Final judgment, under Ord. XIV. 180
Indorsements on writ of summons 107
of address of person issuing writ of summons . . . . . 125—126
Infants, proceedings by and against . . . . . 38—39
proceedings at Chambers relating to 580
Injunctions, &c. 692
Inspection of property 784
Interpleader proceedings . . . . . 677—678
Issues of fact without pleadings 259
Joinder of causes of action 129
Judgments—directions as to prosecution of, at Chambers 464
Judgment, motion for . . . . . 317—318
entry of 355
final under Ord. XIV. 180
Judicial opinion, advice, and assistance 954
Jury, special (*see* Trial) 336
Lis pendens, registering action as 136
Lodgment of funds in Court . . . . . 742—744
Lunatics, proceedings by and against 52
Mandamus 705
Married women, proceedings by and against . . . . . 60—61
Motions . . . . . 686—687
Motion for judgment . . . . . 317—318
Parties to an action . . . . . 63—64
adding, &c. 65
change of, by death, &c. . . . . 84—85
service of notice of judgment on 74
Partners, proceedings by and against 30
Paupers, proceedings by and against 33
Pay Office, proceedings in :
carrying over money and securities . . . . . 757—758
lodgment of funds in Court . . . . . 742—744
payment into Court before defence . . . . . 182—183
payment into Court with or after defence . . . . . 223—224
payment out of Court, of dividends . . . . . 760—761
payment out of Court of capital monies . . . . . 766—769
placing money on deposit and investment . . . . . 753—755
securities, transfer and deliver out of . . . . . 766—769
Perpetuate testimony, action to 675
Petitions 689
Pleadings : . . . . . 190—192
amending . . . . . 196—197
claim, statement of 203
counterclaim and set-off . . . . . 235—236
default of pleading 249
defence . . . . . 220—221
demurrer proceedings in lieu of . . . . . 243—244
pleading matters arising pending the action 192
reply and subsequent pleadings 239
Possession, writ of . . . . . 423—424

PAGE

Preservation and inspection of property 784
Proceedings at trial 332
Receivers . . . . . 717—718
Referees 342
Registering action as a *lis pendens* 136
Registrars of Chancery Division . . . . . 356—357
Removal of action from District Registry 187
Reply and subsequent pleadings 239
Restraining transfer of stock, &c. 699
Sales by the Court . . . . . 539—540
Security for costs 837
Sequestration, writ of 404
Service of writ of summons or of notice 140
  Out of jurisdiction . . . . . 143—144
  Substituted 141
Special case . . . . . 853—854
Special jury, obtaining 336
Specially indorsed writ—signing judgment under Order XIV. 180
Statement of claim 203
Stock, restraining transfer of 699
Subpœna, the 300
Summons, the 430
  Originating, the 432
Third party procedure . . . . . 68—69
Transfer . . . . . 819—820
Trial:
  affidavit on 277
  entry of 329
  jury special 336
  modes of 323
  new trial, motion for 348
  notice of 332
  proceedings at . . . . . 324—325
  referees by 342
Unsound mind, persons of, proceedings by and against 52
Writ:
  of attachment 395
  of delivery 426
  of *elegit* 386
  of *fieri facias* 372
  of possession . . . . . 423—424
  of sequestration 404
Writ of summons, the:
  amendment of . . . . . 132—133
  concurrent writs 130
  form of 96
  indorsements on 107
  indorsement of address of person issuing . . . . . 125—126
  issue of . . . . . 127—128
  leave to issue: when required 129
  renewal of 131
  service of, or of notice in lieu of 140
  service of out of jurisdiction . . . . . 143—144
  service of, setting aside 149
  substituted service of 141

LIST OF TEXT BOOKS, ETC., REFERRED TO.

ARCHBOLD, Crown Office Practice. 1844.
Barry, Statutory Jurisdiction of the Court of Chancery. 1861.
Beames, on Writ of *Ne Exeat Regno*, 2nd ed. 1824.
Bennett, Practice in the Master's Office. 1834.
Best, Treatise on the Principles of Evidence, 7th ed. 1883.
Bloxam, Chamber Regulations in Chancery. 1857.
Braithwaite, Oaths in the Supreme Court of Judicatnre, 4th ed. 1884.
Brandon, Notes of Practice of the Mayor's Court. 1864.
Buckley, Law and Practice under the Companies Acts, 4th ed. 1883.
Burn, Ecclesiastical Law, 9th ed. 1843.
Candy, Mayor's Court Practice. 1879.
Chambers, on Infants. 1842.
Chitty's Archbold's Practice (cited as Chitty's Arch.), 13th ed. 1879.
Chitty, Forms of Practical Proceedings in the Queen's Bench Division, 12th ed. 1883.
Clerke and Brett, Conveyancing Act, 1881, 2nd ed. 1882.
Comyns, Digest of the Laws of England, 5th ed. 1822.
Cooke, on Inclosures, 4th ed. 1864.
Coote, Treatise on the Law of Mortgage, 5th ed. 1884.
Corner, Crown Office Practice. 1844.
Cox, Equity Chamber Forms, by Biddle, 3rd ed. 1863.
Daniell, Chancery Forms and Precedents (cited as, Dan. Forms), 2nd ed. 1871 : 3rd ed. 1879.
Daniell, Chancery Practice (cited as, Dan. Pr.), 6th ed. 1882—1884.
Dart, Law of Vendors and Purchasers, 5th ed. 1876.
Davidson, Precedents in Conveyancing. 1874—1881.
Dickson, Law of Evidence in Scotland, 2nd ed. 1864.
Dixon, Law of the Farm, 4th ed. 1879.
Dodd and Brooks, Probate Court Practice. 1865.
Fisher, Law of Mortgage, 4th ed. 1883.
Foster, Law of Joint Ownership. 1878.
Francis, Law of Charities, 2nd ed. 1855.
Fry, Specific Performance, 2nd ed. 1881.
Grant, Chancery Practice, 5th ed. 1845.
Gresley, Evidence in Equity, 2nd ed. 1847.
Haddan, Administrative Jurisdiction of the Court of Chancery. 1862.
Hanson, Probate, Legacy, and Succession Duties Acts, 3rd ed. 1876.
Harris and Clarkson, Conveyancing and Vendor and Purchaser Acts. 1882.
Hill, Treatise on the Law relating to Trustees. 1845.
Hubback, Evidence of Succession to Real and Personal Property and Peerages. 1844.
Johnson, Patentee's Manual, 5th ed. 1884.
Joyce, Law and Practice of Injunctions. 1872.
Kerr, Receivers, 2nd ed. 1882.
Kerr, Treatise on the Law and Practice of Injunctions, 2nd ed. 1878.
Lawrence, Compulsory Sale of Real Estate, under the Partition Acts. 1877.
Lawson, Patents, Designs, and Trade Marks Practice. 1884.
Leading Cases in Conveyancing (Tudor), 3rd ed. 1879.

Leading Cases in Equity (White and Tudor), 5th ed. 1877,
Lewin, Law of Trusts and Trustees, 7th ed. 1879.
Lindley, Law of Partnership, 4th ed. 1878.
Lloyd, Treatise on the Law of Prohibition. 1849.
Lush, Common Law Practice, 3rd ed. 1865.
Mackenzie and White, Supreme Court Funds Rules. 1884.
Macpherson, Treatise on the Law of Infants. 1842.
Morgan and Wurtzburg, Chancery Acts and Orders (cited as, Morgan), 6th ed. 1885.
—— —— Treatise on Costs in Chancery (cited as, Morgan and Wurtzburg), 2nd ed. 1882.
Munro, Patents, Designs and Trademarks Act, 1883. 1884.
Palmer, Company Precedents, 3rd ed. 1884.
Peachey, Treatise on the Laws of Marriage and other Settlements. 1860.
Pemberton, Revivor and Supplement. 1867.
Phillips, The Law of Evidence, 10th ed. 1852.
Pitt-Lewis, County Court Practice, 2nd ed. 1884.
Powell, Law of Evidence, 4th ed. 1875.
Prideaux, Precedents in Conveyancing, 12th ed. 1883.
Pulling, Law of Attorneys and Solicitors, 3rd ed. 1862.
Ram, Treatise on the Law of Assets. 1837.
Rouse, Copyhold Enfranchisement Manual, 3rd ed. 1866.
Russell, Arbitration and Awards, 6th ed. 1882.
Sebastian, Law of Trademarks. 1884.
Seton, Forms of Decrees, Judgments and Orders, 4th ed. 1877—79.
Shelford, Real Property Statutes, 8th ed. 1874.
Shortt, Law relating to Works of Literature and Art, 2nd ed. 1884.
Simpson, Treatise on the Law and Practice relating to Infants. 1875.
Smith, Compendium of the Law of Real and Personal Property, 6th ed. 1884.
Snow, Winstanley, & Walton, The Annual Practice (cited as, Ann. Pr.). 1883—1884.
Spence, Equitable Jurisdiction. 1846—49.
Standing Orders, House of Lords (cited as, S. O. H. of L. 1884). 1884.
—— —— House of Commons, (cited as, S. O. H. of C. 1884). 1884.
Starkie, Treatise of the Law of Evidence, 4th ed. 1853.
Stephen, Commentaries on the Law of England, 9th ed. 1883.
Story, Commentaries on Equity Jurisprudence. 1884.
Sugden, Treatise on Powers, 8th ed. 1861.
—— Real Property Statutes. 1852.
—— Vendors and Purchasers, 14th ed. 1862.
Sutton, Tramways Acts, 2nd ed. 1883.
Tapping, Mandamus. 1848.
Taylor, Law of Evidence, 8th ed. 1885.
Trevor, Taxes on Succession, 4th ed. 1881.
Trower, Law of Debtor and Creditor. 1860.
Tudor, Leading Cases in Conveyancing, 3rd ed. 1879.
Van Heythuysen, Equity Draughtsman, 2nd ed. 1828.
Walker, Partition Act, 2nd ed. 1882.
White and Blackburn, The Married Women's Property Act, 1882. 1883.
White and Tudor, Leading Cases in Equity, 5th ed. 1877.
Williams, Sir E. V., Law of Executors and Administrators, 8th ed. 1879.
Williams, J., Essay on Real Assets. 1861.
Williams, S. E., Petitions. 1880.
Wilson, Supreme Court of Judicature Acts (cited as, Wilson), 4th ed. 1883.
Wolstenholme and Turner, Conveyancing Acts, 3rd ed. 1883.
—— —— Settled Land Acts, 1882 and 1884, 2nd ed. 1884.
Woodfall, Law of Landlord and Tenant, 12th ed. 1881.

ADDENDA ET CORRIGENDA.

[NOTE.—*This table includes notes of cases reported in the months of March and April*, 1885.]

PAGE

28, n. (*b*), l. 4. *For* "s. 153" *read* "s. 53."

32, n. (*g*), l. 18. *For* "Townhend" *read* "Townend."

43, n. (*n*). *For* "2 Seton, 788" *read* "2 Seton, 708."

61, l. 11 from bottom. *For* "35 L. J. Q. B." *read* "53 L. J. Q. B."

62, l. 7. *After* "*Baynton* v. *Collins*, 27 Ch. D. 604 : 33 W. R. 41" *add* "*In re Thompson & Curzon*, W. N. (1885), 60 (Kay, J.) ; *In re Hughes's Trusts*, *Ibid.*, 62 (Pearson, J.)."

69, n. (*b*), l. 6. *After* "32 W. R. 670" *add* "A *bonâ fide* claim for indemnity by defendant over against a third party is good ground for allowing the third party to be brought in ; *semble*, that a third party cannot bring in a fourth : *Carshore* v. *North Eastern Ry. Co.*, 52 L. T. 232 : 33 W. R. 420 (C. A.)."

,, ,, l. 20. *Eden* v. *Weardale Iron and Coal Co.*, since reported, 28 Ch. D. 333 : 54 L. J. Ch. 384.

104, n. (*j*). *For* "c. 22" *read* "c. 32."

,, n. (*k*). *For* "c. 70" *read* "c. 73."

161, Form 404. *For* "Form 157" *read* "Form 187."

184, n. (*n*), l. 9 }
225, n. (*l*), l. 6 } *McIlwraith* v. *Green*, since reported, 52 L. T. 81.

244, n. (*b*), l. 6. *After* "W. N. (1883), 215" *add* "For cases in which, after decision of a point of law in the defendant's favour, the action has been dismissed, under R. S. C. Ord. XXV. 3, see *O'Brien* v. *Tyssen*, 28 Ch. D. 372 : 51 L. T. 814 : 33 W. R. 428 (V.-C. B.) ; *Percival* v. *Dunn*, W. N. (1885), 46 (V.-C. B.) ; and for a case in which the application was refused, see *Boddington* v. *Rees*, 52 L. T. 209 (V.-C. B.).

245, n. (*f*), l. 3. *Johnston* v. *Johnston*, since reported, 52 L. T. 76 (C. A.).

PAGE

281, n. (*q*). *After* "469" *add* "It has recently been decided that the direction in R. S. C. Ord. XXXVIII. 28, that the party producing a deponent for cross-examination shall not be entitled to demand the expenses thereof in the first instance from the party requiring such production, is not confined to the cross-examination of the deponent before the Court at the trial of the action, but applies also to a cross-examination in proceedings before the Chief Clerk in Chambers or before an examiner: *Backhouse* v. *Alcock*, 33 W. R. 407: W. N. (1885), 48 (Chitty, J.). The practice, therefore, in this respect, can no longer be considered as governed by *Re Knight*, *Knight* v. *Gardner* (*ubi supra*)."

300, n (*d*), l. 6. *For* "c. 3, s. 40" *read* "c. 63, s. 44."

317, n. (*a*), l. 15. *After* "W. N. (1877), 13" *add* "The correct course, where infants are parties, and their defence is withdrawn and judgment is moved for, is to prove the statement of claim by affidavit: *Gardner* v. *Tapling*, 33 W. R. 473 (North, J.), following *Fitzwater* v. *Waterhouse*, 52 L. J. Ch. 83."

324, n. (*d*), l. 1. *After* "848" *add* "*Powell* v. *Cobb*, 52 L. T. 183: W. N. (1885), 32 (Pearson, J.); S. C. (affirmed on appeal), W. N. (1885), 58."

325, n. (*g*), l. 8. *Saunders* v. *Pawley*, since reported, 54 L. J. Q. B. 199.

327, n. (*o*), l. 8. *Add* "*Gardner* v. *Jay*, 52 L. T. 181: W. N. (1885), 31 (Pearson, J.); S. C. (affirmed on appeal), 33 W. R. 470: W. N. (1885), 41."

341, n. (*b*), l. 17. *For* "notice" *read* "matter."

345, n. (*p*). *For* "note (*n*)" *read* "note (*o*)."

441, Form 1102, l. 2. *For* "in" *read* "on."

442, n. (*f*), l. 6. *After* "911" *add* "But see *Backhouse* v. *Alcock*, 33 W. R. 407: W. N. (1885), 48 (Chitty, J.). The practice can no longer be considered as governed by *Knight* v. *Gardner* (*ubi supra*)."

455, Form 1145. *For* "*same as* Form 1246" *read* "same as Form 1247."

457, n. (*b*), l. 13. *After* "28 Sol. J. 477" *add* "See also *In re Wilson*, *Alexander* v. *Calder*, 28 Ch. D. 457 (Pearson, J.)."

459, n. (*g*) *Add* "For a discussion of the principles on which the Court will act in the exercise of its discretion under R. S. C. Ord. LV. 10, whethe or not to make an order for administration, see *In re Wilson*, *Alexander* v. *Calder*, 28 Ch. D. 457."

565, n. (*p*), l 4. *For* "see note (*a*) to Form 1334" *read* "see note (*l*) to Form 1329."

621, n (*b*), l. 8. *Bradford* v. *Young*, since reported, 54 L. J. Ch. 368. *After* "33 W. R. 159" *add* "The Court will not stay execution for costs, pending an appeal to the House of Lords, upon payment into Court of the amount, unless the inability of the respondent to repay the amount, or other special circumstances, be shown: *Barker* v. *Lavery*, 54 L. J. Q. B. 241 (C. A.)."

626, n. (*k*), l. 7. *For* "*Faner*" *read* "*Farrer*." The case is since reported, 52 L. T. 38.

PAGE

626, n. (*n*) *Add* "Where an appellant has made default in obeying an order to give security for costs of the appeal, if in the opinion of the Court a reasonable time has elapsed, and there are no circumstances which extenuate the delay, an order will be made for the immediate dismissal of the appeal. If there be such circumstances, and the Court thinks fit to grant an extension of time, it will fix the time within which the security is to be given, when, if default is made, the appeal will stand dismissed without further order. An unexplained delay of three months is sufficient to justify an order for immediate dismissal of the appeal: *Washburn & Moen Manufacturing Co.* v. *Patterson*, 33 W. R. 403 (C. A.)."

627, Form 1461. *For* "*see* Form 38" *read* "*see* Form 37."

,, Form 1463. *For* "*see* Form 38" *read* "*see* Form 36."

656, n. (*a*), l. 10. *Hunter* v. *Myatt*, since reported, 33 W. R. 411.

662, n. (*m*). *Add* "Where an order *nisi* for foreclosure and possession had been made, the order absolute also provided for possession, and was made *ex parte*: *Withall* v. *Nixon*, 28 Ch. D. 413 (Pearson, J.)."

664, n. (*s*), l. 6. *After* "32 W. R. 918" *add* "*Doble* v. *Manley*, 52 L. T. 246: 33 W. R. 409: W. N. (1885), 36 (Chitty, J.); *London* v. *Hammer*, W. N. (1885), 62 (Pearson, J.), in which cases it has been decided that, if in a foreclosure action subsequent incumbrancers and the mortgagor do not appear, only one period of redemption will be allowed."

681, n. (*k*), l. 7. *After* "32 W. R. 495" *add* "Leave to appeal from an order of a judge on trial of an interpleader issue is not necessary: for by the Supreme Court of Judicature Act, 1873, s. 19, an appeal lies from the order of the judge on the trial, and the Act is within the exception provided for by R. S. C. Order LVII. 11: *Dawson* v. *Fox*, 14 Q. B. D. 377 (C. A.)."

693, n. (*c*). *Add* at end of the note, "A party who has deliberately consented to a perpetual injunction will not be permitted to withdraw his consent, merely because he subsequently discovers that he might have a good defence to the action: *Elsas* v. *Williams*, 54 L. J. Ch. 336 (Kay, J.)."

752, Form 1743, ll. 3 to 11. *Delete* "And I make" to "oaths," and *substitute* "And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Statutory Declarations Act, 1835 (*ss*);" and *add*, as note (*ss*), "See the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict. c. 41, s. 68)."

803, n. (*s*), l. 13. *After* "27 Ch. D. 1" *add* "After a party has made a sufficient affidavit of documents, his opponent will not be allowed to administer a general roving interrogatory as to documents in his possession: *Hall* v. *Truman, Hanbury & Co.*, 52 L. T. 82: W. N. (1885), 51 [explaining *Jones* v. *Montevideo Gas Co.* (*ubi supra*)]—C. A."

837, n. (*b*), l. 22. *Trustee of Pooley* v. *Whetham*, since reported, 33 W. R. 423 (C.A.). *Add* "A *defendant* in an interpleader action may be ordered to give security for costs: *Tomlinson* v. *Land and Finance Corporation*, 14 Q. B. D. 539 (C. A.)."

FORMS AND PRECEDENTS.

CHAPTER I.

GENERAL FORMS.

Section I.—Reference to the Record—Indorsement on Proceedings.

1. Reference to the record (*a*).

188—. A. (*b*). No. 100.

1 a. Title and reference to the record (*c*).

In the High Court of Justice, Chancery Division. (*Name of Judge.*) (*cc*) 188—. B. No. .

In the matter of the Estate of ——.

Between A. B. . . . . Plaintiff,

and

C. D. . . . . Defendant.

1 b. Short title and reference to the record (*d*).

In the High Court of Justice, Chancery Division. (*Name of Judge.*) (*cc*) 188—. B. No. .

In re A. B.'s estate.

B. *v.* D.

(*a*) This reference is required to be written or stamped on the first page of every judgment, order, certificate, petition, or document made, presented, or used in any cause or matter: R. S. C. Ord. LXI. 19.

By the Supreme Court Funds Rules, 1884, r. 2, the term "Title of the Cause" includes the "Reference to the Record."

Marking Writs, &c.—The "Reference to the Record" must be marked on writs of summons: Dan. Pr. 323; R. S. C. Ord. V. 13; on pleadings: Dan. Pr. 389; R. S. C. Ord. XIX. 11; and on a *præcipe* for writ of execution: Dan. Pr. 826; R. S. C. Ord. XLII. 12.

(*b*) The initial letter of the surname of the plaintiff. In the case of an action to administer the estate of a deceased person, the reference to the record contains the initial letter of the surname of the deceased person, and not of the plaintiff.

(*c*) Throughout this work, wherever these words occur they refer to this Form.

(*cc*) *District Registry.*—Where an action is commenced in a District Registry, the action will be further distinguished by the name of such registry: R. S. C. Ord. V. 13.

(*d*) Throughout this work, wherever these words occur they refer to this Form.

2.

Certificate that cause was commenced before 1852 (*e*).

I certify that this cause was commenced previously to the first day of Michaelmas Term, 1852.

A. B.,
Plaintiff's solicitor.

3.

Indorsement on writ, of name and address, &c., of solicitor suing out same (*f*). [Dan. Pr. 321.]

This writ was issued by —— (*g*), of ——, in the —— of —— (*h*); whose address for service is at ——, in the —— of —— (*i*); [agent for ——, of ——, in the —— of —— (*k*),] solicitor for the plaintiff, who resides at —— (*l*).

4.

Indorsement of address, &c., where writ issued by plaintiff in person (*m*). [Dan. Pr. 321.]

This writ was issued by the plaintiff in person, who resides at —— (*n*), and is a —— (*o*), and whose address for service is at —— (*p*).

(*e*) This certificate was required by Reg. Regul. 15th March, 1860, r. 19, and by Cons. Ord. I. 48, 51. These provisions are not renewed by R. S. C.; but it seems that the Registrars still require some memorandum to be given, in the case of orders made in old suits. And by the Chancery Funds Amended Orders, 1874, r. 17, it is provided that all proceedings and documents in such suits shall be inscribed with a note indicating that the cause was commenced prior to 2nd November, 1852. It is apprehended that these orders are revoked by the Supreme Court Funds Rules, 1884, only so far as they contain provisions inconsistent with such Rules: see rule 2.

(*f*) See R. S. C. Ord. IV. 1. The address, &c., of the solicitor must appear on the document originating proceedings where commenced otherwise than by writ of summons: R. S. C. Ord. IV. 4; on the memorandum of appearance: *Ibid.*, Ord. XII. 10; on pleadings delivered between the parties: *Ibid.*, Ord. XIX. 11; and on writs of execution: *Ibid.*, Ord. XLII. 13.

(*g*) Name or firm of plaintiff's solicitor: R. S. C. Ord. IV. 1, 3, 4.

(*h*) Place of business of plaintiff's solicitor: R. S. C. Ord. IV. 1, 3, 4.

(*i*) As to address for service, see R. S. C. Ord. IV. 1; and where writ issued in District Registry: *Ibid.*, Ord. IV. 3.

(*k*) R. S. C. Ord. IV. 1, 3, 4.

(*l*) *Ibid.*

(*m*) See Form 3, note (*f*).

(*n*) Here mention the city, town, or parish, and also the name of the street, and number of the house of the plaintiff's residence: R. S. C. Ord. IV. 2, 3. It seems, on comparing R. S. C. 1883, App. A, Pt. 1, No. 1, with R. S. C. 1875, App. A. Pt. 1, No. 1, for which it is substituted, that this requirement has been applied by mistake to the wrong clause of the alternative forms there given; see, in confirmation of this view, R. S. C. 1883, Ord. XLII. 13.

(*o*) Here mention the plaintiff's occupation: R. S. C. Ord. IV. 2, 3.

(*p*) As to address for service where writ issued by plaintiff in person, see R. S. C. Ord. IV. 2; and where writ issued in District Registry: *Ibid.*, Ord. IV. 3.

(*Short title, and reference to the record.*)

Take notice that my place of business
Or, place of residence ; *Or*, address for service
is now at ——, instead of at ——.
Dated this —— day of ——, 188—.

A. B., solicitor [*or*, agent] for the plaintiff, *&c.*—*Or*,
A. B., the plaintiff, *&c.*, in person.

To the Masters of the Supreme Court ; and
To Mr. C. D., solicitor [*Or*, agent] for
the defendant E. F. [*or as may be*].

5.
Notice of change of place of business or residence, or of address for service (*q*). [Dan. Pr. 47, note (*s*).]

SECTION II.—AFFIDAVITS, OATHS AND JURATS.—AFFIRMATIONS, DECLARATIONS AND AFFIRMATS.

(1.) *Affidavits, and Oaths and Jurats thereto* (*a*).

(*Dan. Pr.*, pp. 620–638, cccl xxiv—cccl xxvi.)

188—. B. No.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
In the matter of the Estate of ——.
Between A. B. and others . . Plaintiffs,
and
C. D. and others . . Defendants (*c*).

I, A. B. (*d*), of (*Place of abode and description* (*e*)), make oath and say (*f*) as follows (*g*) :

1.

2.

(Sworn, *&c.*: *see* Form 9.)

6.
Formal parts of an affidavit : one deponent (*b*). [Dan. Pr. 624, 625.]

(*q*) See Rules of Practice Masters, 1880, 1881, 1882 ; Ann. Pr. 562.

(*a*) *Contents of Affidavits.*—As to the material contents of affidavits in particular cases, see *Index*, AFFIDAVIT. As to the form and contents of affidavits, see 1 Seton, 27, 28. Affidavits must be confined to such facts as the witness is able of his own knowledge to prove : except on interlocutory motions, on which statements as to his belief with the grounds thereof may be admitted : R. S. C. Ord. XXXVIII. 3 ; Dan. Pr. 626 ; see *Bidder* v. *Bridges*, 26 Ch. D. 1 : 32 W. R. 445. Dates and sums may be written in words or figures : except that if the affidavit is to be used in the Pay Office, sums should be written in words : Dan. Pr. 627 ; *Re Watts*, 24 W. R. 701. Every quotation should be placed between inverted commas : Dan. Pr. 627. Alterations or interlineations must be authenticated by the initials of the officer before whom the affidavit is

sworn; and in the case of an erasure, the words and figures appearing at the time of taking the affidavit to be written on the erasure must be re-written and initialed in the margin by him: R. S. C. Ord. XXXVIII. 12. The Court or a Judge may order any scandalous matter to be struck out of an affidavit: R. S. C. Ord. XXXVIII. 11.

Printing Affidavits.—See Dan. Pr. 635, 636; R. S. C. Ord. XXXVIII. 30; LXVI. 7.

Filing Affidavits.—Every affidavit used in a cause or matter proceeding in a District Registry must be filed there; and every other affidavit in the Central Office: R. S. C. Ord. XXXVIII. 10. No affidavit can be taken out of a District Registry (except upon removal of the proceedings to London) without the order of a Judge or of the District Registrar: R. S. C. Ord. XXXV. 22; and no affidavit can be taken out of the Central Office without the order of a Judge or Master: R. S. C. Ord. LXI. 28; Dan. Pr. 632. A fee of 2*s.* 6*d.* is payable on filing an affidavit: by a stamp impressed on or adhesive to it: Ord. as to S. C. Fees, 1884, Sched. No. 29; Ord. as to Fees, &c., July, 1884, p. 6.

Office Copies.—The party filing an affidavit must leave a copy with the officer to be marked as an office copy: R. S. C. Ord. LXVI. 7 (*f*); but no office copy need be taken of an affidavit of discovery of documents: R. S. C. Ord. LXV. 27 (54). In the case of claimants filing affidavits, the person who examines the claims takes the office copies: R. S. C. Ord. LV. 48. As to the fees payable on office copies, see Ord. as to S. C. Fees, 1884, Sched. Nos. 20, 21; Ord. as to Fees, &c., July, 1884, p. 5.

Copies supplied to other Parties.—See R. S. C. Ord. LXVI. 7 (*c*), (*d*), (*e*), (*h*), (*i*), (*j*); Dan. Pr. 632, 633.

Costs.—Costs occasioned by unnecessary prolixity in the title to an affidavit will be disallowed: R. S. C. Ord. XXXVIII. 2. Costs of unnecessarily setting forth matters of hearsay or argumentative matter, or copies of or extracts from documents must be paid by the party filing the affidavit: *Ibid.*, 3; see *Hirst* v. *Procter*, W. N. (1882), 12. No costs will be allowed of any affidavit substantially departing from the provisions of R. S. C. Ord. XXXVIII. 7. The costs of an application to strike out scandalous matter may be ordered to be paid as between solicitor and client: *Ibid.*, 11. As to allowances for preparing special affidavits, see R. S. C. Ord. LXV. 27 (1). As to instructions for and drawing special affidavits, *Ibid.* (5). As to fees to counsel for settling affidavits, *Ibid.* (15). As to costs of affidavits containing vexatious or unnecessary matter, or of unnecessary length, *Ibid.* (20).

(*b*) *Form of Affidavit.*—An affidavit may be sworn to either in print or in manuscript, or partly in print and partly in manuscript: R. S. C. Ord. LXVI. 4; Dan. Pr. 625. Every affidavit must be drawn up in the first person, must be divided into paragraphs numbered consecutively, and each paragraph must, as nearly as may be, be confined to a distinct portion of the subject; and every affidavit must be written or printed bookwise: R. S. C. Ord. XXXVIII. 7. The Court or a Judge may receive a defective affidavit, and direct a memorandum to be made on it that it has been so received: R. S. C. Ord. XXXVIII. 14; see *Harlock* v. *Ashberry*, 28 Sol. J. 26.

(*c*) *Title of Affidavit.*—Every affidavit must be entitled in the cause or matter in which it is sworn; but where there are more than one plaintiff or defendant it is sufficient to state the full name of the first plaintiff or defendant respectively, and that there are other plaintiffs or defendants, as the case may be: R. S. C. Ord. XXXVIII. 2; Dan. Pr. 624.

(*d*) The full Christian and surnames, or title of honour, of the deponent should be stated. A married woman should be described as such, and the Christian and surnames of her husband be stated. An unmarried woman must be described as a spinster, or widow.

(*e*) Every affidavit must state the description and true place of abode of the deponent: R. S. C. Ord. XXXVIII. 8; Dan. Pr. 625; as thus: of No. 80, Belgrave Square, in the county of Middlesex, esquire—*or*, of No. 112, Cheapside, in the city of London (clerk to Mr. E. F., of the same place), gentleman, the solicitor in this action [*or*, matter] for the plaintiffs [*or*, defendant A. B.]. If the deponent is a party, or *quasi* party, to the action or proceeding, or is named in a judgment, order, or

7.

This affidavit is filed on behalf of the plaintiffs [*Or*, defendants ; *or*, petitioner ; *or*, respondents ; *or*, A. B. and C. D. ; *or as may be*].

Foot note to an affidavit (*h*). [Dan. Pr. 632.]

8.

(*Title and reference to the record : as in* Form 6.)

We, A. B., of (*Place of abode and description*), and C. D., of (*Place of abode and description*), jointly and severally make oath and say, as follows :

Formal parts of an affidavit : two or more deponents. [Dan. Pr. 624, 625.]

1.

2.

Or, severally make oath and say :

And first I the said A. B., for myself say, as follows :

1.

2.

And I the said C. D., for myself say, as follows :

3.

4.

And we the said A. B., and C. D., further jointly say, as follows :

5.

6.

Sworn (*&c. : see* Form 9).

This affidavit (*&c. : see* Form 7.)

Foot note.

chief clerk's certificate made therein, his identity should be shown in the introductory part of the affidavit ; as thus : one of the above-named plaintiffs—*or*, one of the above-named defendants—*or*, the petitioner named in the petition presented in this action [*or*, matter] on the —— day of ——, 188—, *or*, who is attending the proceedings in this action—*or*, in the judgment [*or*, order—*or*, chief clerk's certificate] in this action [*or*, matter] dated the —— day of ——, 188—, named. Whether a party to the action may describe himself as "the above-named plaintiff," or "the above-named defendant," without specifying any residence or addition, or other description, having regard to the language of R. S. C. Ord. XXXVIII. 8, *quære*. It is better to give the place of abode and description in all cases.

(*f*) As to the necessity for these words, see Dan. Pr. 625.

(*g*) As to form of affidavit, see note (*b*) *supra*. It is unnecessary to commence each paragraph with "that," or, "I say that," or "and I further say that." A schedule referred to in an affidavit as "hereunder written" should be placed after the jurat ; but a schedule referred to as "the schedule [*or*, the first, &c., schedule] set forth in this my affidavit," should be placed before the jurat : Dan. Pr. 627. The schedules may also be embodied in the affidavit : Dan. Pr. 628. If schedules are placed after the jurat, the commissioner or other person before whom the affidavit is sworn must sign his name at the end of each schedule : Braithwaite's Oaths, 60.

(*h*) As to this memorandum, see R. S. C. Ord. XXXVIII. 10 ; LXVI. 7 (*k*).

9.

Ordinary forms of oath and jurat: one deponent (*k*). [Dan. Pr. 629.]

To the deponent: Is that your name and handwriting?

You do swear that the contents of this your affidavit are true—So help you God (*i*).

Jurat (*l*):

(1) Before a Chief Clerk (*m*).

Sworn [*Or, if the deponent is not the only one to the affidavit, say:* Sworn by the deponent (*i*) A. B.] at (*State where; as:* the Chambers of the Vice-Chancellor Bacon [*Or,* Mr. Justice Kay; *or,* Mr. Justice Chitty; *or,* Mr. Justice Pearson], Royal Courts of Justice, in the County of Middlesex,

(*i*) See Braithwaite's Oaths, 58, 59. The like form is used in the case of a peer: Braithwaite's Oaths, 60. A Christian swears on the Holy Evangelists, except in cases within the 1 & 2 Vict. c. 105; a Jew upon the Pentateuch. A complete testament need not be used in either case. A Christian, in making oath, holds the book in his or her right hand: the hand being uncovered, and, in the case of a male person, the head being uncovered also. A Jew, in making oath, holds the book in his right hand, the hand being uncovered, but the head covered; if, however, the Jew wishes to make oath with his head uncovered, the officer cannot object to it: Dan. Pr. 620; Braithwaite's Oaths, 45.

(*k*) As to the persons before whom an affidavit may be sworn, see Dan. Pr. 621 *et seq.*; 1 Seton, 28, 29; Ann. Pr. 402–404; Morgan, 434—436; Braithwaite's Oaths, 25–32. As to affidavits sworn WITHIN THE JURISDICTION, see *Generally*, R. S. C. Ord. XXXVIII. 4.—*Masters and Clerks in Filing and Record Department, or Clerk of Enrolments:* 36 & 37 Vict. c. 66, ss. 77, 82; 42 & 43 Vict. c. 78, s. 7; R. S. C. Ord. LXI. 5.—*District Registrars:* 36 & 37 Vict. c. 66, s. 62.—*Commissioners to Administer Oaths in S. C.:* 16 & 17 Vict. c. 78, ss. 1, 2; 36 & 37 Vict. c. 66, ss. 76, 77, 82, 84.—*Taxing Officer:* R. S. C. Ord. LXV. 27 (25).—*Chief Clerk in Chancery Division:* 36 & 37 Vict. c. 66, s. 77; R. S. C. Ord. LV. 16. As to affidavits sworn OUT OF THE JURISDICTION, see, *Generally*, R. S. C. Ord. XXXVIII. 6.—*In Scotland, Ireland, Channel Isles, Isle of Man, or any place in foreign parts under the dominion of Her Majesty:* 15 & 16 Vict. c. 86, s. 22; 16 & 17 Vict. c. 78, s. 6; 36 & 37 Vict. c. 66, s. 76.—*In Scotland, Ireland, Channel Islands, or Isle of Man:* 6 & 7 Vict. c. 82, s. 1; 16 & 17 Vict. c. 78, s. 3; 36 & 37 Vict. c. 66, ss. 76, 77, 82, 84.—*In any place out of the dominions of Her Majesty:* 15 & 16 Vict. c. 86, s. 22; 18 & 19 Vict. c. 42, ss. 1, 2; 36 & 37 Vict. c. 66, s. 76. An affidavit taken before a notary in the United States was *not* allowed to be filed: *De Leon* v. *Hubbard*, W. N. (1883), 197; but see *contra*, *Cooke* v. *Wilby*, 25 Ch. D. 769: 32 W. R. 379; *Cooper* v. *Moon*, W. N. (1884), 78; *Brittlebank* v. *Smith*, W. N. (1884), 120: 32 W. R. 675. The Court will take judicial notice of the seal of a colonial notary public affixed to a document which is not a proceeding in a suit, nor attested for the express purpose of being used in Court: *Brooke* v. *Brooke*, 17 Ch. D. 833: 30 W. R. 45.

(*l*) The jurat should be written at the end of the affidavit. It is usually placed at the right-hand corner; but may be written on either side of the page, or, if necessary, in the margin; but not on a page upon which no part of the statements in the affidavit appears. It must express the time when, and the place where, the affidavit is sworn: R. S. C. Ord. XXXVIII. 5; Dan. Pr. 629. An affidavit, or any other document sworn to, may be re-sworn at any time before it is filed. If, on re-swearing, a second jurat is given, commencing with the word "re-sworn," then the first jurat should not be struck out, or in any manner interfered with; but if the second jurat commences with the word "sworn"—in other words, if the jurat on the re-swearing is such as is used when a document is first sworn to—then the first jurat must be struck out, and the striking out be authenticated by the initials of the commissioner before whom the affidavit is last sworn: Braithwaite's Pr. 345.

(*m*) See R. S. C. Ord. LV. 16.

A. B. (*n*).

Or,

the Royal Courts of Justice in the County of Middlesex, (2) Before a Taxing Master (*o*).

Or,

the Royal Courts of Justice, in the County of Middlesex, (3) Before a Master, or Clerk in Filing, &c., Department (*oo*).

Or,

the Enrolment Office, in the Royal Courts of Justice, in the County of Middlesex, (4) Before the Clerk of Enrolments.

Or,

the District Registry of the High Court of Justice, at —— in the County of ——, (5) Before a District Registrar (*p*).

Or,

my office, No. 5, New Square, Lincoln's Inn, in the County of Middlesex, (6) Before a Commissioner (*q*).

Or,

Louth, in the County of Lincoln,

Or,

St. Heliers, in the Island of Jersey, (7) Before a Channel Islands' Commissioner (*r*).

Or,

No. 300, Princes Street, in the City of Edinburgh, (8) Before a Scotch Commissioner (*r*).

Or,

No. 400, Montpelier Street, in the City of Dublin), (9) Before an Irish Commissioner (*r*).

(*State when*; *as*: this —— day of ——, 188—).

before me,

C. D. (*s*),

Chief Clerk (*s*).

Or, C. D.,

Taxing Master.

(*n*) The deponent must sign his name, or make his mark, at the side of the jurat; not underneath it: Dan. Pr. 629.

(*o*) See R. S. C. Ord. LXV. 27 (25).

(*oo*) See 36 & 37 Vict. c. 66, ss. 77, 82; 42 & 43 Vict. c. 78, s. 7; R. S. C. Ord. LXI. 5.

(*p*) See 36 & 37 Vict. c. 66, s. 62.

(*q*) See 16 & 17 Vict. c. 78, ss. 1, 2; 36 & 37 Vict. c. 66, ss. 76, 77, 82, 84. The Commissioner before whom the affidavit is sworn must not be the solicitor acting for the party on whose behalf the affidavit is to be used, nor the agent or correspondent of such solicitor, nor his clerk or partner, nor the party himself: R. S. C. Ord. XXXVIII. 16, 17.

(*r*) See R. S. C. Ord. XXXVIII. 6; 15 & 16 Vict. c. 86, s. 22; 16 & 17 Vict. c. 78, s. 6; 36 & 37 Vict. c. 66, s. 76.

(*s*) The person before whom the affidavit is sworn must sign his name at the foot of the jurat: to which must be added his full official character and description, but not necessarily in his own handwriting: Dan. Pr. 629.

Or, C. D.,
A Master of the Supreme Court.
Or,
—— Class Clerk in the Filing and Record Department, Central Office.
Or, C. D.,
Clerk of Enrolments.
Or, C. D.,
District Registrar.
Or, C. D.,
A Commissioner to administer Oaths in the Supreme Court of Judicature in England.
Or, C. D.,
A Commissioner to administer Oaths within the Channel Islands in proceedings in the Supreme Court of Judicature in England.
Or, C. D.,
A Commissioner to administer Oaths within Scotland in proceedings in the Supreme Court of Judicature in England.
Or, C. D.,
A Commissioner to administer Oaths within Ireland in proceedings in the Supreme Court of Judicature in England.
[*or as may be.*]

10

Ordinary forms of oath and jurat: two or more deponents sworn together. [Dan. Pr. 630.]

To each deponent: Is that your name and handwriting?

To both, or all: You do severally swear that the contents of this your affidavit are true—So help you God.

A. B. }
C. D. } Sworn by the deponents A. B. and C. D. [*or*, by both—*or*, by all—the above named deponents (*t*)] at (*Continue as in* Form 9 *to the end*).

(*t*) In every affidavit made by two or more deponents, the names of the several persons making the affidavit must be inserted in the jurat, except that if the affidavit of all the deponents is taken at one time by the same officer, it is sufficient to state that it was sworn by both, or all, of the "above-named" deponents: R. S. C. Ord. XXXVIII. 9; Dan. Pr. 630.

11.
Oaths and jurat: where the affidavit is read to an illiterate or blind deponent (*tt*). [Dan. Pr. 629, cclxxv.]

To an illiterate deponent not being blind: Is that your name and handwriting? [*or*, Is that your name and mark?].

To an illiterate or blind deponent: You do swear that the contents of this your affidavit are true—So help you God.

A. B.
[*Or*,
The mark of
X
A. B.].

Sworn by the deponent A. B. at (*State where, and when, as in* Form 9), before me;

And I certify that this affidavit was read in my presence to the said deponent, he being illiterate [*or*, blind], and that he seemed perfectly to understand it, and made his signature [*or*, mark] thereto in my presence,

---

12.
Oaths and jurat: where a foreigner deposes in English, through an interpreter (*u*). [Dan. Pr. 630.]

To the interpreter (*x*): Is that your name and handwriting (*y*)?

You do swear that you well understand the French language [*or other language of the foreigner*]; and that you have truly, distinctly, and audibly interpreted the contents of this affidavit to the deponent A. B.; and that you will truly and faithfully interpret to him the oath about to be administered to him—So help you God.

To the foreigner, through the interpreter: Is that your name and handwriting?

You do swear that the contents of this your affidavit are true—So help you God.

A. B.
—
C. D.,
of (*residence and addition* (*z*)).

Sworn at (*State where, and when, as in* Form 9), by the deponent A. B., through the interpretation of C. D.: the said C. D. having been first sworn that he had truly, distinctly, and audibly interpreted the contents of this affidavit to the deponent A. B.; and that he would truly and faithfully interpret to the said A. B. the oath about to be administered to him:

before me (*&c.: see* Form 9).

13.
Oaths and jurat, where the affidavit is in a foreign language: the oath being interpreted to the deponent. [Dan. Pr. 630.

To the interpreter (*a*): Is that your name and handwriting (*b*)?

You do swear that you well understand the French language [*or other language of the foreigner*]; and that you will truly and faithfully interpret to the deponent A. B. the oath about to be administered to him—So help you God.

(*tt*) See R. S. C. Ord. XXXVIII. 13; *In re Longstaff, Blenkharn* v. *Longstaff*, W. N. (1884), 216.

(*u*) See Braithwaite's Oaths, 63.

(*x*) The interpreter is usually a notary public; but it is not essential that he should be one.

(*y*) It is not necessary that the interpreter should sign the affidavit: Braithwaite's Oaths, 63, note (*k*).

(*z*) See last note. If the interpreter does not sign the affidavit and add his place of residence and addition, they must be stated in the jurat, immediately after the first occurrence of his name.

(*a*) See Form 12, note (*x*).

(*b*) *Ibid.*, note (*y*).

To the foreigner, through the interpreter: Is that your name and handwriting?

You do swear that the contents of this your affidavit are true—So help you God.

A. B. — C. D., of (*residence and addition* (*c*)).

Sworn at (*State where, and when, as in* Form 9), by the deponent A. B., through the interpretation of C. D.: the said C. D. having been first sworn that he would truly and faithfully interpret to the said A. B. the oath about to be administered to him:

before me (*&c.: see* Form 9).

14.

Verification of a translation of the affidavit into English, in like case (*d*).

To the translator (*e*)*:* Is that your name and handwriting?

You do swear that you well understand the French language [*or other language in which the affidavit is written*]; and that the above written is a true translation into the English language of the affidavit of A. B. in the French [*or as may be*] language thereunto annexed—So help you God.

C. D.

C. D., of (*residence and addition; as:* No. 90, Cornhill, in the City of London, notary public (*e*)), was sworn at (*State where, and when, as in* Form 9), that the above written is a true translation into the English language of the affidavit of A. B. in the French [*or as may be*] language thereunto annexed, and affixed together at the top thereof under the (notarial) seal of the said C. D., with his name thereto subscribed:

before me (*&c.: see* Form 9).

15.

Oath of a Presbyterian, under 1 & 2 Vict. c. 105, and jurat (*f*). [Dan. Pr. 631.]

To the deponent: Is that your name and handwriting?

To be uttered by the deponent: I, A. B., do solemnly and sincerely declare that

State in what form, and with what ceremony, an oath will be binding; as: holding up my right hand, and declaring to the truth of this my affidavit, as I shall answer to God at the great day of judgment,

is a form of oath that is most binding on my conscience; and I do

(*c*) See Form 12, note (*z*).

(*d*) Where an affidavit is written in a foreign language, a translation into English, verified by a competent person, must be filed with the original; see Braithwaite's Oaths, 62, note (*h*).

(*e*) It is not essential that the translator should be a notary public.

(*f*) See 1 & 2 Vict. c. 105, s. 1. For the form of oath of a witness in Scotland, and mode of administering it, see Dickson on Evid. in Scot. s. 1970, 2nd ed.

solemnly and sincerely declare that the contents of this my affidavit are true

Repeat the binding form; as: as I shall answer to God at the great day of judgment.

A. B. { Sworn by the deponent A. B., pursuant to the Act 1st and 2nd Victoria, chapter 105, at (*State where, and when, as in* Form 9), before me (*&c.: see* Form 9).

(2) *Affirmations, and Declarations and Affirmats thereto.*

16. Affirmation by a Quaker or Moravian (*g*). [Dan. Pr. 631.]

(*Title and reference to the record: as in* Form 6.)

I, A. B., of (*Place of abode, and description*), being one of the people called Quakers [*or*, one of the persuasion of the people called Quakers; *or*, of the United Brethren called Moravians], do solemnly, sincerely, and truly declare and affirm as follows:

1.

2.

Affirmed (*&c.: see* Form 18).

17. Foot note to an affirmation (*h*).

This affirmation is filed on behalf of (*&c.: Continue as in* Form 7 *to the end*).

18. Declaration and affirmat, to affirmation by a Quaker or Moravian (*i*). [Dan. Pr. 631.]

To the affirmant: Is that your name and handwriting?

To be uttered by the affirmant: I, A. B., do solemnly, sincerely, and truly declare and affirm that the contents of this my affirmation are true.

A. B. { Affirmed by the said A. B., at (*State where, and when, as in* Form 9).

before me (*&c.: see* Form 9).

19. Affirmation by an ex-Quaker or ex-Moravian, under 1 & 2 Vict. c. 77 (*k*). [Dan. Pr. 631.]

(*Title and reference to the record: as in* Form 6.)

I, A. B., of (*Place of abode, and description*), having been one of the people called Quakers [*or*, one of the persuasion of the people called Quakers; *or*, of the United Brethren called Moravians], and entertaining conscientious objections to the taking of an oath, do solemnly, sincerely, and truly declare and affirm as follows:

1.

2.

Affirmed (*&c.: see* Form 20).

(*g*) See 3 & 4 Wm. IV. c. 49. See the notes to Form 6, which apply as well to affirmations as to affidavits; as by 36 & 37 Vict. c. 66, s. 100, the word "oath" includes solemn affirmation and statutory declaration.

(*h*) See note (*h*) to Form 7.

(*i*) See the notes to Form 9.

(*k*) See 1 & 2 Vict. c. 77; and notes to Form 6.

20.

Declaration and affirmat thereto (*l*). [Dan. Pr. 631.]

To the affirmant: Is that your name and handwriting?

To be uttered by the affirmant: I, A. B., having been one of the people called Quakers [*or*, one of the persuasion of the people called Quakers; *or*, of the United Brethren called Moravians], and entertaining conscientious objections to the taking of an oath, do solemnly, sincerely, and truly declare and affirm that the contents of this my affirmation are true.

A. B. { Affirmed by the said A. B., pursuant to the Act 1st and 2nd Victoria, chapter 77, at (*State where, and when, as in* Form 9). before me (*&c.: see* Form 9).

21.

Affirmation by a Separatist under 3 & 4 Will. IV. c. 82 (*m*). [Dan. Pr. 631.]

(*Title and reference to the record: as in* Form 6.)

I, A. B., of (*Place of abode, and description*), do, in the presence of Almighty God, solemnly, sincerely, and truly affirm and declare, that I am a member of the religious sect called Separatists, and that the taking of any oath is contrary to my religious belief, as well as essentially opposed to the tenets of that sect. And I do also, in the same solemn manner, affirm and declare as follows:

1.

2.

Affirmed (*&c.: see* Form 22).

22.

Declaration and affirmat thereto (*n*). [Dan. Pr. 631.]

To the affirmant: Is that your name and handwriting?

To be uttered by the affirmant: I, A. B., do, in the presence of Almighty God, solemnly, sincerely, and truly affirm and declare, that I am a member of the religious sect called Separatists, and that the taking of any oath is contrary to my religious belief, as well as essentially opposed to the tenets of that sect. And I do also, in the same solemn manner, affirm and declare that the contents of this my affirmation are true.

A. B. { Affirmed and declared by the said A. B., pursuant to the Act 3rd & 4th William the IVth, chapter 82, at (*State where, and when, as in* Form 9), before me (*&c.: see* Form 9).

(*l*) See the notes to Form 9.
(*m*) See 3 & 4 Wm. IV. c. 82.
(*n*) See the notes to Form 9.

23. Affirmation under the Common Law Procedure Act, 1854 (*o*).

(*Title and reference to the record: as in* Form 6.)

I, A. B., of (*Place of abode and description*), do solemnly, sincerely, and truly affirm and declare, that the taking of any oath is, according to my religious belief, unlawful. And I do also solemnly, sincerely, and truly affirm and declare as follows:

1.

2.

Affirmed (*&c.: see* Form 24).

---

24 Declaration and affirmation thereto (*p*).

To the affirmant: Is that your name and handwriting?

To be uttered by the affirmant: I, A. B., do solemnly, sincerely, and truly affirm and declare, that the taking of any oath is, according to my religious belief, unlawful. And I do also solemnly, sincerely, and truly affirm and declare, that the contents of this my affirmation are true.

A. B. { Affirmed by the said A. B., at (*State where, and when, as in* Form 9), pursuant to the Act 17th & 18th Victoria, chapter 125, before me: I having been first satisfied of the sincerity of the objection made by the said A. B. to be sworn, from conscientious motives.

(*Signature and style of office: see* Form 9).

(3.) *Affidavits and Affirmations generally.*

25. Formal parts of joint affidavit and affirmation (*q*).

(*Title and reference to the record: as in* Form 6.)

I, A. B., of (*Place of abode and description*), make oath and say, and I, C. D., of (*Place of abode and description*), being one of the people called Quakers [*or as may be; see* Forms 16, 19, 21, 23], do solemnly, sincerely, and truly affirm and declare [*or as may be*]:

And first I, the said A. B., for myself say, as follows:

1.

2.

And I, the said C. D., for myself say, as follows:

3.

4.

A. B. } Sworn by the said A. B., and affirmed by the said C. D. (*&c.; see the preceding forms*), at (*State where, and when, as in* Form 9),

C. D. }

before me (*&c.; see* Form 9).

(*o*) See 17 & 18 Vict. c. 125 (Common Law Procedure Act, 1854), s. 20. For form of promise and declaration under the "Evidence Further Amendment Act, 1869" (32 & 33 Vict. c. 68), s. 4, as amended by the "Evidence Amendment Act, 1870" (33 & 34 Vict. c. 49), see Form 781.

(*p*) See the notes to Form 9.

(*q*) See Form 8 *et seq.*, and notes thereto.

26.

Foot note thereto (*r*).

This affidavit and affirmation is filed on behalf of (*Continue as in* Form 7 *to the end*).

27.

Affidavit verifying signature of a foreign magistrate, &c., to an affidavit, where not judicially noticed (*s*). [Dan. Pr. 623.]

Formal parts: see Form 6.

1. I am well acquainted with the handwriting of A. B., of (*State address, as in jurat to affidavit, notarial act, or certificate, &c.: as thus:* Dijon in France): having seen him write.

2. The signature "————" set and subscribed to the jurat at the foot of the paper writing marked A. now produced and shown to me, and purporting to be an affidavit sworn in this action [*or*, matter] by C. D. before the said A. B., is of the proper handwriting of the said A. B.

If so: and the seal affixed to or impressed on the said affidavit, near such signature, is the seal of office of the said A. B.

3. The said A. B. is a

(*Describe what, as in jurat to affidavit, notarial act, or certificate, &c.: as thus;* notary public, duly admitted as such, and practising at Dijon aforesaid):

and by the law and practice of [France] the said A. B. had, at the time the said affidavit was sworn before him, full power and authority to administer oaths and take affidavits; and affidavits taken before him in the manner aforesaid are received in the Courts of Judicature in [France] in all proceedings where affidavits are required or in use.

4. (*Show means of knowledge.*)

28.

Memorandum of identity of exhibit (*ss*). [Dan. Pr. 628.]

188—. B. No.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
(*Short title; as:* Brown *v.* Dunn and others.)

This is the paper [*or*, parchment] writing marked A. [*or*,

(*r*) See note (*h*) to Form 7.

(*s*) Where an affidavit sworn abroad is sworn before any of Her Majesty's consuls or vice-consuls in any foreign parts out of Her Majesty's dominions, judicial notice is taken of the seal or signature of such agent: 15 & 16 Vict. c. 86, s. 22; 18 & 19 Vict. c. 42, s. 3; R. S. C. Ord. XXXVIII. 6. But if an affidavit is sworn abroad before any other person, the Court requires to be satisfied that such person was authorized by the law of the country where the affidavit was sworn to administer an oath; and the signature of such person must also be verified. These facts may be proved by affidavit, or by the certificate of some British diplomatic or consular agent in that country. See cases cited, Dan. Pr. 623, and notes thereto, and in note (*k*) at p. 6, *ante*.

(*ss*) *Exhibits.*—A document may be referred to in an affidavit either as an exhibit, thus: "produced and shown to me at the time of swearing this my affidavit, and marked with the letter A." (or, briefly and usually, "now produced and shown to me, and marked A."); or as "hereunto annexed." In the former case, the person before whom the affidavit is sworn must inquire whether the deponent has seen the

A. B. 1] (*t*) referred to in the affidavit [*or*, affirmation] of X. Y. (and T. Z.), sworn [*or*, affirmed] in this action [*or*, matter] before me (*If not by all the deponents or affirmants, add:* by the said X. Y.), this —— day of ——, 188—.

E. F., a Commissioner, &c. [*or as may be; see* Form 9].

29.

Notice of filing an affidavit or affirmation (*u*). [Dan. Pr. 633.]

Formal parts: see Form 37.

Take notice that I have this day filed an affidavit [*or*, affirmation] of A. B. [*or*, an affidavit of each of the following persons, namely, A. B., C. D., and E. F.].

30.

Notice of intention to read an affidavit, &c., already filed (*x*). [Dan. Pr. 633, 975, 1554, 1567.]

Formal parts: see Form 37.

Take notice that the plaintiff [*or as may be*] intends to read on the hearing of (*State what occasion; as:*

the petition presented by him [*or as may be*] in this action [*or*, matter] on the —— day of ——, 188—; *Or,*

the motion to be made in this action [*or*, matter], pursuant to the notice given by him [*or as may be*] on the —— day of ——, 188—; *Or,*

the summons taken out in this action [*or*, matter] by him [*or as may be*], on the —— day of ——, 188—; *or as may be*)

the affidavit [*or*, affirmation] of X. Y., filed in this action [*or*, matter] on the —— day of ——, 188—.

---

document, and is aware of the contents thereof: in the latter, the document should be annexed to the affidavit at the time it is sworn; and the affidavit cannot be filed without it. It is therefore generally more convenient *not* to refer to a document as "hereunto annexed." Accounts, extracts from parish registers, particulars of creditors' debts, and other documents, referred to by affidavit, must not be annexed to the affidavit, or referred to in the affidavit as annexed, but must be referred to as exhibits: R. S. C. Ord. XXXVIII. 23. Every certificate on an exhibit referred to in an affidavit, signed by the commissioner or officer before whom the affidavit is sworn, must be marked with the short title of the cause or matter: R. S. C. Ord. XXXVIII. 24. The reference to the record should also be added.

(*t*) Great confusion is frequently caused by using the letters of the alphabet as exhibit-marks. This is especially the case where the exhibits are numerous, as in evidence in proof of pedigrees and the like. In such cases the better course is to use as exhibit-marks the initial letters of the deponent's name, followed by consecutive numbers, as thus: A B 1, A B 2, &c. By adopting this method, the exhibits to the affidavits of the several witnesses are readily identified, and a multiplicity of exhibits bearing similar exhibit-marks avoided.

(*u*) It is usual in practice to give notice of filing an affidavit: but, with the exception of R. S. C. Ord. XXXVIII. 25—27, there appears to be no rule expressly requiring it.

(*x*) R. S. C. Ord. XXXVIII. 20, 21.

Section III.—Affidavits of Service.

31. Affidavit of service of a notice or notice of motion (*a*). [Dan. Pr. 1553.]

Formal parts: see Form 6.

1. On ——, the —— day of ——, 188—, before six o'clock in the evening [*or*, two o'clock in the afternoon; *or as may be*] (*b*) I served (*Describe the person or persons required to be served; as thus:*

A. B., the defendant [*or*, A. B., one of the defendants] in this action,

Or,

A. B., who is attending the proceedings in this action [*or*, matter],

Or,

A. B., in the order made in this action [*or*, matter] dated the —— day of ——, 188—, named,

Or,

A. B., of (*residence and addition*),

Or,

Mr. C. D., who acts as solicitor [*or*, agent] in this action [*or*, matter] for the plaintiff, *&c.*,

Or,

each of the following persons, that is to say: (1) A. B., one of the defendants in this action; (2) Mr. C. D., who acts as solicitor in this action for the plaintiff; and (3) Mr. G. H., who acts as agent in this action for L. M., who is attending the proceedings therein—

or as may be,)

with a notice in writing intituled in this action [*or*, matter], addressed to the said (*State whom*), and purporting that (*Recite the body of the notice:*) by delivering a true copy of the said notice to, and leaving the same with (*Describe the person or persons on whom, and where, service was effected; as thus*

the said A. B., personally, at (*State where*), in the (county) of ——.

Or,

the said A. B., personally, at (*State where*), in the (county) of ——, and the said C. D., personally, at, *&c.*

(*a*) As to the time for service of a notice of motion, see R. S. C. Ord. LII. 5. As to the mode of service, see R. S. C. Ord. LXVII. 2, 4–8. As to the time within which an affidavit of service was formerly required to be filed when the respondent did not appear, see *Scear* v. *Webb*, 25 Ch. D. 849. The Court of Appeal has recently directed the Chancery Registrars that they may accept, until an opinion of the Court is expressed to the contrary effect, affidavits of service sworn and filed at any time before the order is drawn up; but if the affidavit is sworn after the date of the order, the order is not to be post-dated, and the affidavit is not to be entered formally as evidence: the Registrars are, in such case, to make a memorandum in the margin of the order that the affidavit of service has been sworn and filed; and the recital may be introduced into the order "No one appearing for A. B., although duly served, &c., as by affidavit appears:" 28 Sol. J. 591.

(*b*) As to the hours for service where personal service is not required, see R. S. C. Ord. LXIV. 11. Affidavits of service are required to state when, where, and how, and by whom service was effected: R. S. C. Ord. LXVII. 9.

Or,

each of the following persons, that is to say: (1) the wife of the said A. B., at his dwelling-house, situate at (*State where*), in the (county) of ——; (2) the clerk of the said C. D., at the address for service of the said C. D., situate at, *&c.*; and (3) the servant of the said G. H., at the address for service of the said G. H., situate at, *&c.*

32. Affidavit of service of judgment or order (*c*). [Dan. Pr. 276, *et seq.*, 878.]

Formal parts: see Form 6.

1. On the —— day of ——, 188—, I served the defendant C. D. [*or*, C. D., the person named in the order dated the —— day of ——, 188—, hereinafter mentioned; *or as may be*] with the judgment [*or*, order] in this action [*or*, matter] dated the —— day of ——, 188—, now produced and shown to me and marked A. B. 1 [*or, if not exhibited, say:* whereby it was declared that &c., and whereby it was ordered that (*Here recite the declaratory and directory parts of the judgment or order*)], by delivering a true copy of the said judgment [*or*, order] to, and leaving the same with

(*If service personal, say:* the said defendant C. D. at ——, in the county of ——);

(*In case of substituted service, say:* X. Y., the person named in the order, dated the —— day of ——, 188—, hereinafter mentioned, at ——, in the county of ——);

and I at the same time produced and showed to the said C. D. [*or*, the said X. Y.] the said original judgment [*or*, order] duly passed and entered.

Or, an office copy of the said judgment [*or*, order] duly sealed with a seal of the Central Office (*d*).

2. The copy of the said judgment [*or*, order] so served as aforesaid, had endorsed thereon, at the time of the aforesaid service thereof, a memorandum in the words following, that is to say: "If you, the within-named C. D., neglect to obey this judgment [*or*, order], by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey the same judgment [*or*, order]" (*e*).

In case of substituted service, add: 3. At the time of the aforesaid service of the said judgment [*or*, order], I also served the said X. Y. with an order made in this action [*or*, matter] dated the —— day of ——, 188—, now produced and shown to me and marked A. B. 2 [*or, if not exhibited, say:* whereby it was ordered that (*Recite the order*)], by delivering a true copy of such order to, and leaving the same with, the said X. Y.; and I at the same time produced and showed to him such original order, duly passed and entered [*or*, an office copy of the said order, duly sealed with a seal of the Central Office].

(*c*) As to the contents of the affidavit, see Form 31, note (*b*).

(*d*) See R. S. C. Ord. LXI. 7. As to when an office copy may be used, see R. S. C. Ord. LXVII. 1.

(*e*) See R. S. C. Ord. XLI. 5; *Hampden* v. *Wallis*, 26 Ch. D. 746: 32 W. R. 808; *Treherne* v. *Dale*, 27 Ch. D. 66: 33 W. R. 97.

33.

Affidavit of service of a petition (*f*). [Dan. Pr. 1564, 1565.]

Formal parts : see Form 6.

1. On ——, the —— day of ——, 188—, before six o'clock in the evening [*or*, two o'clock in the afternoon ; *or as may be* (*g*)], I served (*Describe the person or persons required to be served ; as thus :*

A. B., the defendant [*or*, A. B., one of the defendants] in this action,

Or,

A. B., who is attending the proceedings in this action [*or*, matter],

Or,

A. B., in the order made in this action [*or*, matter] dated the —— day of ——, 188—, named,

Or,

A. B., who is named in the note at the foot of the petition hereinafter mentioned,

Or,

Mr. C. D., who acts as solicitor [*or*, agent] in this action [*or*, matter] for the plaintiff, *&c.*,

Or,

each of the following persons, that is to say : (1) A. B., one of the defendants in this action ; (2) Mr. C. D., who acts as solicitor in this action for the plaintiff ; and (3) Mr. G. H., who acts as agent in this action for L. M., who is attending the proceedings therein,

—*or as may be*),

with a petition preferred in this action [*or*, matter] by (*State whom ; as thus :* the above-named plaintiffs) to the High Court of Justice, with the fiat or order of the Court (*h*) thereon, dated the —— day of ——, 188—, whereby it was ordered that all parties concerned should attend thereon on the —— day of ——, 188—, and notice thereof was to be given forthwith [*or as may be*], and with the note at the foot of the said petition, and of which note a true copy is set forth in the schedule hereto : by delivering a true copy of the said petition, fiat or order, and foot note to, and leaving the same with (*Describe the person or persons on whom, and where, service was effected ; as thus :*

the said A. B., personally, at (*State where*), in the (county) of ——,

Or,

the said A. B., personally, at (*State where*), in the (county) of ——, and the said C. D., personally, at, *&c.*,

Or,

each of the following persons, that is to say : (1) the wife of the said A. B., at his dwelling-house, situate at (*State where*), in the (county) of —— ; (2) the clerk of the said C. D., at the address for service of the said C. D., situate at, *&c.* ; and (3) the servant of the said G. H., at the address for service of the said G. H., situate at, *&c.*).

(*f*) As to the service of a petition, see R. S. C. Ord. LII. 17 ; LXVII. 2. As to the contents of the affidavit, see Form 31, note (*b*).

(*g*) See note (*b*) to Form 31.

(*h*) As to answering the petition, see R. S. C. Ord. LXII. 18 ; Dan. Pr. 1564, ccccx. The fiat is signed by the Senior Registrar.

2. At the time of the aforesaid service thereof, I showed the said original petition, with the said fiat or order thereon, and foot note thereto, to the person [*or*, to each of the persons] to whom such true copy thereof was delivered by me as aforesaid.

Schedule.

(*Set out a copy of the foot note*) (*i*).

34.

Affidavit of service of an ordinary summons (*k*). [Dan. Pr. 970.]

Formal parts : see Form 6.

1. On ——, the —— day of ——, 188—, before six o'clock in the evening [*or*, two o'clock in the afternoon], I served (*Describe the person or persons required to be served, as thus :*

A. B., the defendant [*or*, A. B., one of the defendants] in this action,

Or,

A. B., who is attending the proceedings in this action [*or*, matter],

Or,

A. B., of (*residence and addition*),

Or,

Mr. C. D., who acts as solicitor [*or*, agent] in this action [*or*, matter] for the plaintiff, *&c.*,

Or,

each of the following persons, that is to say : (1) A. B., one of the defendants in this action ; (2) Mr. C. D., who acts as solicitor in this action for the plaintiff ; and (3) Mr. G. H., who acts as agent in this action for L. M., who is attending the proceedings therein, —*or as may be*),

with a summons in this action [*or*, matter], dated the —— day of ——, 188—, issued from, and under the seal of, the Chambers of Mr. Justice ——, and addressed to the said (*Describe whom*) : by delivering to, and leaving with (*Describe the person or persons on whom, and where, service was effected ; as thus :*

the said A. B., personally, at (*State where*), in the (county) of ——,

Or,

the said A. B., personally, at (*State where*), in the (county) of ——, and the said C. D., personally, at, *&c.*,

Or,

each of the following persons, that is to say : (1) the wife of the

(*i*) See R. S. C. Ord. LII. 16 ; Dan. Pr. 1563.

(*k*) As to the contents of the affidavit, see Form 31, note (*b*). As to service, see R. S. C. Ord. LXVII. 2, 4—8 ; *Jiminez & Sons* v. *Owen*, W.N. (1883), 232. Upon any party for whom no appearance has been entered the summons may be served by being filed in the Central Office, or in the District Registry, with the proper officer : R. S. C. Ord. LXVII. 4. In that case the service is proved by an office copy of the summons, having thereon a memorandum showing that the original summons has been so filed, and against whom by name, and the date of filing.

said A. B., at his address for service, situate at (*State where*), in the (county) of —— ; (2) the clerk of the said C. D., at the address for service of the said C. D., situate at, *&c.* ; and (3) the servant of the said G. H., at the address for service of the said G. H., situate at, *&c.*),

a true copy of the said summons ; and I at the same time showed the said summons to the person [*or*, to each of the persons] to whom such true copy was delivered as aforesaid : by which summons all parties concerned were required to attend at the Chambers aforesaid, in the Royal Courts of Justice [*or as may be, as in summons*], on ——, the —— day of ——, 188—, at —— of the clock in the —— noon, on the hearing of an application on the part of (*State whom, as in summons*), for (*State the object of the application, as in summons*).

2. There was at the foot of the copy [*or*, of each copy] of the said summons so served, and at the foot of the said summons when so produced, as aforesaid, a memorandum or statement that such summons was taken out by ——, of ——, solicitor for —— (*Insert these particulars from the summons*).

Where the time for service has been enlarged by adjournment, add : 3. The said copy [*or*, Each of the said copies] of the said summons, when so served as aforesaid, and the said summons when so produced as aforesaid, had in the margin thereof a memorandum in the words and figures following ; namely (*Set out, verbatim, the memorandum of adjournment*).

---

34 a.

Another form of affidavit of service of summons (*l*).

Formal parts : see Form 6.

1. I did on the —— day of ——, 188—, before the hour of six [*or*, two] o'clock in the afternoon, serve G. H. the solicitor [*or*, agent] for the above-named defendant C. D. [*or as may be*], in this action with a true copy duly stamped of the summons hereto annexed (*m*) [*or*, now produced and shewn to me] marked A., by leaving it at the —— of the said G. H., situate at (*State where*), with a clerk of the said G. H. there.

35.

Affidavit of service of a notice, notice of motion, order, petition or ordinary summons on a substitute.

[Dan. Pr. 277, 878, 971, 1551, 1565.]

Formal parts : see Form 6.

1. On ——, the —— day of ——, 188—, before six o'clock in the evening [*or*, two o'clock in the afternoon—*or as may be*], I served (*Describe the person or persons required to be served as in* Form 31), with a (*Describe the notice or other document served, as in* Forms 31—34) ; by delivering to and leaving with (*Name of substitute*), personally, at (*State where*), in the (county) of ——, a true copy of the said notice [*or as may be :* see Forms 31—34].

(*l*) For this Form, see R. S. C. App. B. No. 23. It is not nearly so complete as Form 34, which is the one usually adopted in the Chancery Division.

(*m*) The official form provides for the summons being annexed ; but in practice this would be found very inconvenient, as it would involve filing the summons with the affidavit.

2. *State production of original or office copy order, or original petition or summons, as in* Forms 32—34, *and of service of the note of enlargement of return of summons as in Paragraph* 3 *of* Form 34, *when respectively applicable.*

3. The said (*substitute*) is the person of that name who is named in the order made in this action [*or*, matter], dated the —— day of ——, 188—, now produced and shown to me and marked A. B. 1 [*or, if not exhibited, say:* whereby it was ordered that (*Set out directions as to substituted service*)] and at the time of the aforesaid service on the said (*substitute*), I also served him with the said order of the —— day of ——, 188—, by delivering to, and leaving with him a true copy of such order; and I at the same time produced and showed to him such original order duly passed and entered.

Or, an office copy of such order sealed with the seal of the Central Office.

---

35 a. Affidavit of having been served with a notice or other document.

(*Title and reference to the record: see* Form 6.)

I, A. B., of (*Place of business*), gentleman, the solicitor [*Or*, I, C. D., of (*Place of abode*), clerk to A. B., of (*Place of business*), gentleman, the solicitor] in this action [*or*, matter] for the defendant E. F. [*or as may be*], make oath and say, as follows:

1. On ——, the —— day of ——, 188—, I, as such solicitor [*or*, I, as such clerk—*or as may be*] as aforesaid, was duly served at [*State where; as thus:* my place of business [*or*, at the place of business of the said A. B.,] situate at —— aforesaid], by (*State whom; as thus:* a clerk of Mr. G. H., who acts as solicitor in this action [*or*, matter] for the defendant I. K.—*or as may be*), with the paper writing now produced and shown to me and marked A. B. 1, and purporting to be (*Describe it shortly*).

Sworn (*&c.: see* Form 9).

CHAPTER II.

FORMAL PARTS OF MOTION PAPERS—NOTICES—NOTICES OF MOTION—PETITIONS—AND ORDINARY SUMMONSES.

36.

Formal parts of indorsement of a motion paper (*a*). [Dan. Pr. 1547.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
[*Or*, In the Court of Appeal.]
State short title of action or matter, and reference to the record (*b*); *as thus:*

In Re Jones' Estate
Styles
v.
Brown.
[188—. J.— 100.]
} Brief.

State name of Counsel to move, his fee, on whose behalf the motion is to be made, and its object; as thus:

Mr. A.
— Gua. (*c*).

To move on behalf of the plaintiff [*or*, defendant, A. B.; *or*, of C. D., *&c.*] as within.

Or, that (*State shortly the object of the motion; and if any instructions are written in the fold, or inside the brief, add:* See within (*d*)).

An affidavit in support accompanies (*e*).

(*Add name, &c. of solicitor or party instructing: see* Form 37.)

(*a*) As to motions of course, see Dan. Pr. 1547; and as to special *ex parte* motions, see *Ibid.* A motion paper should ordinarily be prepared on half a sheet of foolscap, and be folded lengthways.

(*b*) As to the reference to the record, see Form 1.

(*c*) Counsel's fee, on a motion purely of course, is half a guinea; and on an *ex parte* motion one guinea, or more, according to circumstances.

(*d*) For convenience of statement, the forms of motion paper given in this work usually assume that the entire instructions to counsel will be set forth in the indorsement; but such instructions, or part of them, may be written in the fold or inside of the brief, or on a separate paper, instead of being indorsed.

(*e*) If an affidavit, or other document, is sent, it should be referred to here.

37.
Formal parts of a notice (*e*).

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
(*Title* (*f*) *and reference to the record* (*g*).)
Take notice that (*State object of the notice* (*h*); *as, thus:*
I have this day filed an affidavit of the defendant A. B. in answer to the enquiry No. — directed by the judgment dated the —— day of ——, 188—.
Dated —— this —— day of ——, 188—.
Add name &c. of solicitor or party giving the notice; as thus:
C. D., No. 800, Euston Road, Middlesex (address for service, at the office of Mr. E. F., No. 200, Chancery Lane, Middlesex), agent for G. H. of Bury, Lancashire, solicitor for the defendant [*or as may be*],
Or,
C. D., Blank Villa, Croydon, Surrey (address for service at the office of Mr. E. F., No. 8, Paper Buildings, Temple), defendant in person [*or as may be*].
To (*Insert names of the solicitors or parties to whom the notice is given; as thus:*
Mr. L. M., solicitor [*or*, agent] for the plaintiff [*or*, for the defendant —*or*, for the petitioner—*or*, for the respondent N. O.—*or*, for P. R.,—attending the proceedings in this action [*or*, matter].
Or, To
The plaintiff—*or*, the defendant—*or*, the petitioner—*or*, the respondent N. O.—*or*, P. R., attending, *&c.*)

38.
Formal parts of a notice of motion (*i*).
[Dan. Pr. 1549.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*ii*).)
[*Or*, In the Court of Appeal.]
(*Title and reference to the record* (*j*).)
Take notice that this Court will be moved

[*If*

(*e*) As to service of a notice or notice of motion, see Form 31, note (*a*).
(*f*) For ordinary purposes the short title, as "*Jones* v. *Styles*," is sufficient.
(*g*) See Form 1.
(*h*) For forms of notice in particular cases, see *Index*, NOTICE.
(*i*) As to motions upon notice, see Dan. Pr. 1547—1561; 1 Seton, 54—58; R. S. C. Ord. LII. As to length of service of the notice, see R. S. C. Ord. LII. 5; LXVII. 2, 4—8. For form of affidavit of service, see Form 31.
(*ii*) Where the commencement of proceedings is by notice of motion, such notice of motion is to be brought to the Writ Department of the Central Office, and the proper officer there is to mark the same with the name of one of the Judges, to be ascertained in manner prescribed as to proceedings commenced by writ of summons: R. S. C. Ord. V. 9 (*a*), (*c*).
(*j*) As to the reference to the record, see Form 1.

If the motion is to be made to the Lord Chancellor state so, or if to the High Court of Justice (*k*), *state before what Judge; as thus:*
before the Lord High Chancellor; *or,*
before his lordship the Vice-Chancellor Sir James Bacon; *or,*
before his lordship Mr. Justice ——,
If the motion is to be made elsewhere than in the Judge's usual Court, state where; as thus: at the residence of the said Lord Chancellor [*or as may be*] situate at (*State where*),
State on what day the motion is proposed to be made; as thus: on Thursday, the —— day of ——, 188— (*l*),
If the motion is to be heard at a specially appointed hour, state so; as: at eleven of the clock in the forenoon
or so soon thereafter as counsel can be heard
State by whom, and on whose behalf, the motion is to be made; as thus: by Mr. A., as counsel on the part of the above named defendant C. D. (*ll*),
Or, by the above named defendant C. D. in person,
Or, on the part of C. D., of (*Insert place of residence, description, and addition of applicant, if not a party to the proceedings*),
that (*Here state the precise object of the motion; as thus:* this action may stand dismissed with costs for want of prosecution).
If special leave has been obtained to serve the notice (*e.g. where the time limited for appearance has not expired* (*m*)): *or to give the notice for a non-motion day: or for a motion day short of the ordinary two clear days after service* (*n*): *or for a special hour or place: state so; as:* [And

(*k*) Where the motion is to be made before the Court of Appeal, the statement will be unnecessary.

(*l*) The day named must be a day on which the Court can sit; otherwise the notice will be bad: *Daubney* v. *Shuttleworth*, 1 Exch. D. 53; *Deykin* v. *Coleman*, 25 W. R. 294. Unless the Court or a Judge give special leave to the contrary, there must be at least two clear days between the service of a notice of motion and the day named in the notice for hearing the motion: R. S. C. Ord. LII. 5; *Daubney* v. *Shuttleworth*, *supra*; and see *Forrest* v. *Davis*, 26 W. R. 534.

(*ll*) The Christian and surnames, or title of honour, or corporate title, of the party on whose behalf the motion is to be made should be here stated; but if it appears by the notice that the application is made by the sole plaintiff, or all the plaintiffs, or by the sole defendant, or all the defendants, the names need not be set forth. The place of residence and description or addition of the applicant should be stated, if he is not shown to be a party to the action or proceeding. Where the applicant is under disability, and the application is made by his next friend or guardian, the Christian and surnames of the next friend or guardian, should be stated; and if not made in an action in which he is so acting, his place of residence and description or addition should be shown: as "the plaintiff John Jones, an infant, by Thomas Styles his next friend"—*or* "the defendant Charles Jones, a person of unsound mind, not so found, by Thomas Styles his guardian"—*or* "Mary Jones an infant, by Thomas Styles of Esher in the county of Surrey, gentleman, her next friend." It is convenient, but not necessary, to name the counsel.

(*m*) See R. S. C. Ord. LII. 9. No leave is required where defendant has been duly served, and has not appeared within the time limited for that purpose: R. S. C. Ord. LII. 8.

(*n*) See R. S. C. Ord. LII. 5; and note (*l*), *supra*; *Dawson* v. *Beeson*, 22 Ch. D. 504: 31 W. R. 537.

And take notice also, that special leave to serve you with this notice
If so, add: and to give this notice for the day (and hour and place) aforesaid,
has been obtained from the said Lord Chancellor [*or as may be*].

Or,

And take notice also, that special leave to give this [*If so*, short] notice for the day (and hour and place) aforesaid has been obtained from the said Lord Chancellor [*or as may be*].

Dated this —— day of ——, 188—.

(*Add name &c. of solicitor or party giving the notice: see* Form 37.)

To (*Insert names of the solicitors or parties to whom the notice is given: see* Form 37).

39.
Formal parts of a petition of course (*o*). [Dan. Pr. 1561—1563.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
(*Set out the title of the action or matter; as thus:*
Between A. B. . . . Plaintiff,
and
C. D. . . . Defendant.
Or thus: In the Matter of A. B., an Infant.)
To Her Majesty's High Court of Justice.
The humble petition of the plaintiff [*or as may be*] (*p*).
Showeth as follows:

1. By, &c. } (*State the material facts on which the application is founded, and divide the statements into paragraphs numbered consecutively.*)
2. On, &c. }

Conclude thus:

Your petitioner therefore humbly prays, that (*State the precise object of the petition*).

40.
Formal parts of a special petition (*q*). [Dan. Pr. 1563.]

Proceed as in Form 39, *to the end of the stating part, and conclude thus:* [Your

(*o*) As to petitions of course, see R. S. C. LXII. 18; Dan. Pr. 1561, 1564.

(*p*) As to the description of the petitioner, see note (*ll*) to Form 38; and Dan. Pr. 1562.

(*q*) *Assignment to particular Judge.*—Where the commencement of proceedings is by petition, such petition is to be brought to the office of the Registrars of the Chancery Division, and to be marked by an officer to be charged by the Registrars with that duty with the name of one of the Judges of the Chancery Division, to be ascertained in the manner provided as to proceedings commenced by writ: R. S. C. Ord. V. 9 (*a*), (*d*). As to special petitions and the practice thereon, see R. S. C. Ord. LII. 16—21; Dan. Pr. 1561—1573; 1 Seton, 49—54. A fee of 1*l.* is payable on answering and setting down a petition by which any proceeding is

Your petitioner therefore humbly prays, that (*State the precise object of the petition*).

Or that such other order may be made in the premises as to this Honourable Court shall seem meet.

And your petitioner will ever pray, &c. (*r*).

41.

Foot note to a special petition (*s*). [Dan. Pr. 1563.]

If any person is intended to be served with the petition, add:

It is intended to serve this petition on (*Name the person or persons intended to be served; as thus:* the defendant C. D.) (*t*).

If no person is intended to be served with the petition, add:

It is not intended to serve this petition on any person.

42.

Consent to a petition not otherwise of course (*u*).

I consent to the prayer of this petition.

A. B., solicitor for the plaintiff [*or*, defendant; *or as may be*].

——, 188—.

43.

Formal parts of an ordinary summons (*v*). [Dan. Pr. 966.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge.*)

(*Title of action or matter, and reference to the record.*)

Let all parties concerned attend at my Chambers (*w*) in the Royal

commenced, unless otherwise provided, and a fee of 10*s.* on any other petition: by a stamp impressed on the petition: Ord. as to S. C. Fees, 1884, Sched. Nos. 55, 56; Ord. as to Fees, &c., July, 1884, p. 8.

(*r*) A petition presented on behalf of a pauper must be signed by his solicitor: R. S. C. Ord. XVI. 29.

(*s*) See R. S. C. Ord. LII. 16.

(*t*) The respondents must be mentioned by name; and not simply as plaintiffs and defendants, which is not a sufficient description: *Meyrick* v. *Laws*, W. N. (1877), 223.

(*u*) The consent is usually written at the foot of the petition.

(*v*) As to the practice on ordinary summonses, see R. S. C. Ord. LIV.; Dan. Pr. 966—971. Every application, which by the Rules of Court is authorised to be made at Chambers, and not being *ex parte*, is to be made by summons in a summary way: R. S. C. Ord. LIV. 1; and every application made "*ex parte*" in which the Judge or proper officer shall think fit so to require is to be made by summons: R. S. C. Ord. LIV. 2. On issuing an ordinary summons a fee of 3*s.* is payable, by means of a stamp impressed on or adhesive to the summons: Ord. as to S. C. Fees, 1884, Sched. No. 11; Ord. as to Fees, &c., July, 1884, p. 4.

(*w*) The following are the numbers of the rooms in the Royal Courts of Justice assigned to the several Judges of the Chancery Division in which summonses are issued:—

Name of Judge.	1st Div.: A. to F.	2nd Div.: G. to N.	3rd Div.: O. to Z.
V.-C. Bacon	No. 697	No. 694	No. 688
Mr. Justice Kay	„ 263	„ 286	„ 293
Mr. Justice Chitty	„ 254	„ 317	„ 303
Mr. Justice Pearson	„ 705	„ 699	„ 710

Courts of Justice, Strand, London, on ——, the —— day of ——, 188—, at —— o'clock in the ——noon,

If a short return is granted, add: by special leave (*x*),

on the hearing of an application on the part of (*State on whose behalf the application is made* (*y*)), that (*State the precise object of the application*).

Dated this —— day of ——, 188—.

James Bacon, V.-C.

Or,

Edward Ebenezer Kay, J.

Or,

Joseph William Chitty, J.

Or,

John Pearson, J.

This summons was taken out by A. & B., of Lincoln's Inn, in the county of Middlesex, solicitors for the applicant [*or as may be*].

To (*Insert the names of the solicitors or persons to be served with the summons: see* Form 37) (*z*).

---

44. Another form of ordinary summons (*a*).

(*Title and reference to the record.*)

Let all parties concerned attend the Judge in Chambers, Royal Courts of Justice, Strand, London, on —— day the —— day of ——, 188—, at —— o'clock in the ——noon, on the hearing of an application on the part of (*State on whose behalf the application is made*), that (*State the precise object of the application*).

Dated the —— day of ——, 188—.

This summons was taken out by G. H., of ——, solicitor for the applicant [*or as may be*].

To (*Insert the names of the solicitors or persons to be served*).

(*x*) See R. S. C. Ord. LIV. 4; Dan. Pr. 968, note (*r*).

(*y*) The applicant should be described as in Form 38, note (*ll*).

(*z*) The above is the form of summons commonly made use of in the Chancery Division. It is more convenient than that prescribed by R. S. C. Ord. LIV. 10; App. K., No. 1: as to which, see Form 44. For form of originating summons, see Chap. XVII., Form 1078.

(*a*) See R. S. C. Ord. LIV. 10; App. K., No. 1; and note (*z*) to Form 43.

CHAPTER III.

PROCEEDINGS BY AND AGAINST PARTICULAR PERSONS (*a*).

[*Dan. Pr.* 53—193.]

SECTION I.—THE ATTORNEY GENERAL (*b*).

[*Dan. Pr.* 54—70, 155—159, cccxxxvii.—cccxli.]

45.

Authority by the relator in an action to use his name (*c*).
[Dan. Pr. 63—68, 323.]

I, A. B., of (*residence and addition*) authorise Mr. C. D., of (*Place of business*), to use my name as relator in the writ of summons about to be issued out of the High Court of Justice, Chancery Division, for the purpose of (*State, succinctly, what*) ; and to prosecute the action to be commenced thereby. Dated, *&c.*

A. B.

46.

Regulations as to proceedings in the name of H. M. Attorney General at the instance of relators.

The following regulations have been issued by Her Majesty's Attorney-General—

In the case of any application to Her Majesty's Attorney-General for his authority to commence in his name at the instance of a relator an action in the High Court of Justice, Chancery Division, the following Regulations will be required to be observed ; and, so far as they are prospective, the authority of the Attorney-General to use his name for the purpose of the proposed proceeding will be given on the condition that the same shall be observed :—

It is required that the statement of claim, and all amendments thereof, shall be signed by the Attorney-General.

The copy of the writ left with the Attorney-General for his signature shall be accompanied by the proposed statement of claim, which the Attorney-General, if he shall allow the action, will also sign and return

(*a*) As to proceedings by or against the Attorney-General of Queen Consort, and of Prince of Wales, see Dan. Pr. 70—71, 159 ; Foreign Governments and States, 71—73, 159—161 ; persons residing out of the jurisdiction, 79—84, 163—164 ; aliens, 92—96 ; persons attainted or convicted, 97—101, 167.

(*b*) As to proceedings by and against the Attorney-General on behalf of the Crown, see Dan. Pr. 54—56, 155—157 ; on behalf of charities, 56—57, 157—159, and Chap. XXXVIII. ; on behalf of idiots and lunatics, 57, 58 ; under the Marriage Acts, 58—62. For proceedings under 24 & 25 Vict. c. 100, s. 153, see Dan. Pr. 62 ; and under Railway Companies Acts (5 & 6 Vict. c 55 ; 7 & 8 Vict. c. 85), *Ibid.* 62, 63.

(*c*) R. S. C. Ord. XVI. 20. This authority is to be filed in the Central Office, or District Registry, as the case may be : *Ibid.* For form of petition of course to name a new relator in the place of one deceased, see Form 48*b* ; and see Dan. Pr. 66.

to the relator's solicitor, to be delivered or filed as provided by the Judicature Acts, 1873 and 1875.

There shall also be left with the Attorney-General a second copy of the writ with a copy of the statement of claim appended thereto, on which there shall be written a certificate of counsel to the following effect:—"I certify that this writ and statement of claim are proper for the allowance of Her Majesty's Attorney-General. Dated, &c." This copy will be retained by the Attorney-General.

The papers shall be accompanied by a certificate of the solicitor presenting the same for allowance that the proposed relator is a proper person to be relator, and that he is competent to answer the costs of the proposed action.

If any amendment of the statement of claim shall at any time become necessary, the proposed amended statement of claim, and a copy thereof showing the proposed amendment, shall be left with the Attorney-General. On such copy there shall be written a certificate of counsel that the proposed amendment is proper for the allowance of the Attorney-General.

If the Attorney-General shall approve the amendment the amended statement of claim will be signed by him and returned to the relator's solicitor to be delivered or filed as may be required. The copy so certified will be retained by the Attorney-General.

47.

Certificate of counsel that writ and statement of claim proper (*d*).

[Dan. Pr. 323.]

I certify that this writ and statement of claim are proper for the allowance of Her Majesty's Attorney-General. Dated, *&c.*

(*Signature of Counsel*).

48.

Certificate by solicitor as to sufficiency of relator (*d*).

[Dan. Pr. 323.]

I hereby certify that A. B., of (*residence and addition*), is a fit and proper person to act as relator in the action proposed to be commenced in the name of Her Majesty's Attorney-General at the instance of the said A. B. for the purpose (*State succinctly what*); and that the said A. B. is competent to answer the costs of the said proposed action. Dated, *&c.*

E. F. (*address*),
Solicitor for the said A. B.

---

48 a.

Authority by new relator, in place of deceased relator.

[Dan. Pr. 66.]

(*Short title, and reference to record.*)

I, E. F., of (*residence and addition*), authorize Mr. C. D., of (*Place of business*), to use my name as relator in this action, in the place of A. B., deceased, and to continue the prosecution of this action. Dated, *&c.*

(*d*) See regulations of Attorney-General, Form 46.

48 b.

Petition of course to name a new relator in place of a deceased relator: the Attorney General consenting. [Dan. Pr. 66.]

Formal parts: see Form 39.

The humble petition of E. F., of, *&c.*,

Showeth as follows:

1. This action was instituted at and by the relation of A. B.
2. The said A. B. died on the —— day of ——, 188—.
3. (*State last material proceeding in the action*).
4. Your petitioner is desirous to be appointed relator in this action in lieu of the said A. B.; and Her Majesty's Attorney General consents thereto.

Your petitioner therefore humbly prays that

If before judgment: The writ of summons in this action may be amended by inserting his name as the relator therein, in lieu of the said A. B.

Or, if after judgment: he may be named as relator in this action, in all subsequent proceedings therein, in lieu of the said A. B.

Section II.—Persons Trading in Co-partnership (*a*).

[*Dan. Pr.* 78—79, 161—163, cccxxxviii.—cccxli.]

Partners.—Summary of Material Provisions of R. S. C. 1883.

	Order.
A. *Plaintiffs.*	
Partners may sue in firm name. Disclosure of names of firm at time cause of action accrued	XVI. 14.
Disclosure of names and addresses, on demand by defendants	VII. 2.
B. *Defendants.*	
Partners may be sued in firm name. Disclosure of names of firm at time cause of action accrued	XVI. 14.
Action against person carrying on business in the name of an apparent firm	,, 15.
Service on partners	IX. 6.
Service in case of apparent firm	,, 7.
Appearance by partners	XII. 15.
Appearance in case of apparent firm	,, 16.
Execution against firm: and against alleged member of firm	XLII. 10.

(1) *Plaintiffs* (*b*).

49.

Demand in writing of names and places of residence of persons constituting the plaintiff firm (*c*). [Dan. Pr. 78.]

Formal parts; see Form 37.

Take notice that you are hereby required by [*or*, on behalf of] the defendant C. D., to declare forthwith in writing, pursuant to the

(*a*) As to proceedings by and against corporations, see Dan. Pr. 73—76, 161; joint stock companies, 75—78, 161—162. For form of petition of course to substitute new public officer, see Form 182. As to service on corporations, &c., see R. S. C. Ord. IX. 8. As to security for costs against a limited company, see Form 1939. As to discovery from a corporation or company, see R. S. C. Ord. XXXI. 5; and Form 1823.

(*b*) Any two or more persons claiming as co-partners may sue in the name of the firm, if any, of which such persons were co-partners at the time of the accruing of the cause of action: R. S. C. Ord. XVI. 14

(*c*) R. S. C. Ord. VII. 2.

Rules of the Supreme Court, Order VII., rule 2, the names and places of residence of all the persons constituting the firm of "A. B. & Co." named as plaintiffs in the writ of summons in this action.

50.
Reply thereto. [Dan. Pr. 78.]

Formal parts; see Form 37.

Take notice that the names and places of residence of all the persons constituting the firm of "A. B. & Co.," named as plaintiffs in the writ of summons in this action, are as follows: D. A., whose place of residence is ——, in the county of ——; F. B., whose place of residence is, *&c.*; and G. H., whose place of residence is, *&c.*

51.
Notice of motion or summons to stay proceedings until demand complied with. [Dan. Pr. 79.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant C. D., that all proceedings in this action may be stayed,

If there are other defendants than the applicant add: as against the defendant C. D.,

until a statement of the names and places of residence of all the persons constituting the firm of "A. B. & Co.," named as plaintiffs in the writ of summons in this action, shall have been furnished to the defendant C. D., or his solicitor. And that the plaintiffs A. B. & Co. may be ordered to pay to the applicant his costs of this application, to be taxed.

52.
Affidavit in support.

Formal parts: see Form 6.

1. On the —— day of ——, 188—, I served Mr. E. F., the solicitor for the plaintiffs in this action [*or*, I served the plaintiffs in this action], with a demand in writing by [*or*, on behalf of] the above-named defendant C. D., requiring the said Mr. E. F. [*or*, the plaintiffs] to declare forthwith the names and places of residence of all the persons constituting the firm of "A. B. & Co.," named as plaintiffs in the writ of summons in this action, by (*Here state how service effected; see* Form 31).

2. *Show that plaintiffs or their solicitor have failed to comply with the demand, either by not furnishing the statement required, or by furnishing an insufficient or untruthful statement.*

3. *State means of knowledge.*

53.
Summons for statement on oath of names of co-partners in the plaintiffs' firm when cause of action accrued (*d*). [Dan. Pr. 78.]

Formal parts: see Form 43.

on the part of the defendant C. D., that the plaintiffs may be ordered, within —— days, to furnish to the applicant a statement in writing of the names of the persons who were co-partners in the firm of "A. B. & Co.," named as plaintiffs in the writ of summons in this action, at the time of the accruing of the cause of action: such statement to be verified on oath.

(*d*) See R. S. C. Ord. XVI. 14. The discovery to be obtained under this rule is different from that under R. S. C. Ord. VII. 2 (as to which, see Form 49). The provisions of the rule are in this respect new.

54. Notice of motion or summons for dismissal of action on continued non-delivery of statement. [Dan. Pr. 79.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant C. D., that the plaintiffs may be ordered, within —— days, to furnish to the applicant a statement of the names and places of residence of all the persons constituting the firm of "A. B. & Co."

Or, a statement of the names of the persons who at the time of the accruing of the cause of action (*e*), were co-partners in the firm of "A. B. & Co."

named as plaintiffs in the writ of summons in this action, such statement to be verified on oath. And that in default of such statement being so furnished the plaintiffs' action may be dismissed without further order (*f*).

If there are other defendants than the applicant add: as against the applicant,

with costs to be paid by the plaintiffs to the applicant.

---

(2) *Defendants* (*g*).

55. Summons for statement of the names of co-partners in the defendants' firm when cause of action accrued (*h*). [Dan. Pr. 162.]

Formal parts: see Form 43.

on the part of the plaintiff, that the defendants may be ordered, within —— days, to furnish to the plaintiff a statement in writing of the names of the persons who were co-partners in the firm of "D. & Co.," named as defendants in the writ of summons in this action at the time of the accruing of the cause of action, such statement to be verified on oath.

(*e*) See Form 53.

(*f*) As to the effect of an order in this form, see *Whistler* v. *Hancock*, 3 Q. B. D. 83.

(*g*) *Actions against Partners.*—Any two or more persons being liable as co-partners may be sued in the name of the firm, if any, of which such persons were co-partners at the time of the accruing of the cause of action. *In case of a co-partnership which has been dissolved to the knowledge of the plaintiff before the commencement of the action the writ of summons shall be served upon every person sought to be made liable:* R. S. C. Ord. XVI. 14. The words in italics are new. As to the difficulty experienced under the old rule (R. S. C. 1875, Ord. XVI. 10), see *Davis* v. *Morris*, 10 Q. B. D. 436: 31 W. R. 749; *Ex parte Young*, 19 Ch. D. 124: 30 W. R. 330. As to action against person carrying on business in name of an apparent firm, see R. S. C. Ord. XVI. 15.

Service.—As to service of writ, see R. S. C. Ord. IX. 6, 7; *Fore Street Warehouses Co.* v. *Durrant*, 10 Q. B. D. 471: 31 W. R. 765; *Shillito* v. *Child*, W. N. (1883). 208 (substituted service allowed where no person having control or management of the business could be found).

Appearance.—Persons sued as partners must appear in their own names; and in case of a person carrying on business in name of an apparent firm, he must appear in his own name, but subsequent proceedings are to be in the name of the firm: R. S. C. Ord. XII. 15, 16; see *Taylor* v. *Collier*, 30 W. R. 701; *Adam* v. *Townhend*, 14 Q. B. D. 103.

Execution.—See R. S. C. Ord. XLII. 10; *Munster* v. *Railton*, 11 Q. B. D. 435: 31 W. R. 880; *Jackson* v. *Litchfield*, 8 Q. B. D. 474: 30 W. R. 531.

(*h*) R. S. C. Ord. XVI. 14. See Form 53, note (*d*).

Section III.—Paupers (*a*).

(*Dan. Pr.*, pp. 84—92, 165—166, cccxxxviii., cccxxxix., cccxli.)

(*a*) *Paupers.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
A. *Plaintiffs.*	
Pauper plaintiff must prove that he is not worth 25*l.*	XVI. 22.
Case must be laid before counsel	,, 23.
Affidavit as to truth of case	,, 24.
No Court fees payable by pauper plaintiff	,, 25.
Assignment of counsel and solicitor	,, 26.
No fees to be taken by person conducting case on behalf of pauper	,, 27.
Pauper giving any such fees will be dispaupered	,, 28.
Every notice of motion, summons, and petition must be signed by solicitor	,, 29.
Duty of solicitor to see that no application made on behalf of pauper without good cause	,, 30.
Costs ordered to be paid to pauper to be taxed as in ordinary cases	,, 31.
B. *Defendants.*	
The above rules (except 23 & 24) apply also to defendants.	

(1.) *Plaintiffs.*

56.

Petition for leave to commence an action or cause as a pauper (*b*). [Dan. Pr. 86.]

In the High Court of Justice,
Chancery Division.
In the matter of an intended action [*or*, cause].
Between A. B. . . . Plaintiff,
and
C. D. . . . Defendant.

To Her Majesty's High Court of Justice.

The humble petition of the above-named A. B., of (*Place of abode, and addition*).

Showeth as follows :

1. Your petitioner (*State object of intended action, or cause, as thus :* claims to be one of the next of kin of E. F., deceased, and desires to commence an action [*or*, cause] in this Honourable Court for the administration of his estate, against the above-named C. D., the administrator thereof).

2. Your petitioner is not worth the sum of twenty-five pounds : his wearing apparel and the subject-matter of the said intended action [*or*, cause] only excepted ; and by reason thereof,

Your petitioner humbly prays, that he may be at liberty to sue and prosecute the said intended action [*or*, cause] as a pauper ; and that G. H., esquire, may be assigned for his counsel, and Mr. I. K. for his solicitor.

(*b*) See R. S. C. Ord. XVI. 22. For form of order, see 2 Seton, 1645, No. 1. For a case in which the application was made by motion, see *In re Lewin*, W. N. (1884), 224 : 33 W. R. 128. It appears to have been stated to the Court in that case that petitions of course are obsolete ; but such is not the fact.

57.

Petition for leave to continue as a pauper an action or cause already commenced. [Dan. Pr. 86.]

Formal parts: see Form 39.

Showeth as follows:

1. On the —— day of ——, 188—, your petitioner issued a writ of summons [*or*, took out an originating summons] in this action [*or* cause], for (*State the relief sought, according to the writ or summons*).

2. *State the subsequent proceedings; as thus:* The defendant has entered an appearance in this action [*or*, cause]; but no further proceeding has been had therein.

3. Your petitioner is not worth the sum of twenty-five pounds: his wearing apparel and the subject-matter of this action [*or*, cause] only excepted; and by reason thereof,

Your petitioner humbly prays that (*conclude as in* Form 56, *substituting* this *for* the said intended).

58.

Opinion of counsel that plaintiff has reasonable grounds for proceeding (*c*). [Dan. Pr. 86.]

I am of opinion that in the circumstances stated in this case, A. B. has reasonable grounds for proceeding against C. D. for (*State object of action or cause*).

I consent to act as his counsel in the action [*or*, cause] proposed to be commenced in his name.

(*Signature of Counsel.*)

——, 188—.

59.

Affidavit of plaintiff verifying statements in case, and of poverty (*d*). [Dan. Pr. 86.]

(*Title of Court, and of* (*intended*) *action or cause, and other formal parts: see* Forms 6 *and* 56.)

1. The case now produced and shown to me and marked A. was submitted by me, or on my behalf, to G. H., esquire, barrister at law, for his opinion thereon; and his opinion on such case is written at the end thereof.

2. To the best of my knowledge and belief the said case contains a full and true statement of all the material facts relating to the matters in question

If action or cause not commenced, add: between me and the above-named C. D., and in respect of which I desire to commence an action [*or*, cause] as a pauper, against the said C. D.

Or, if action, or cause, already commenced, add: in this action [*or*, cause].

(*c*) A person desirous to sue as a pauper must submit a case to counsel for his opinion whether he has reasonable grounds for proceeding: R. S. C. Ord. XVI. 23. The case must contain a full and true statement of all the material facts: R. S. C. Ord. XVI. 21.

(*d*) R. S. C. Ord. XVI. 24. The affidavit may be made by the party or his solicitor.

3. I am not worth the sum of twenty-five pounds (*e*): my wearing apparel and the subject-matter of this [*or*, the said intended] action [*or*, cause] only excepted (*f*).

(*Title, &c., as in* Form 59.)

59 a. Affidavit by plaintiff's solicitor, verifying statements in case (*g*). [Dan. Pr. 86.]

1. The case now produced and shown to me and marked A. was submitted by me, on behalf of the above-named A. B., to G. H., esquire, barrister at law (*Continue to end of paragraph* 2 *of* Form 59, *substituting* the said A. B. *for* me *and for* I).

---

60. Motion paper for leave to prosecute a claim as a pauper (*h*). [Dan. Pr. 87.]

Formal parts: see Form 36.

To move on behalf of A. B. (*residence and addition*): who claims to be (*State what; as thus:* a creditor upon the estate of C. D., the testator in this cause): that he may be at liberty to prosecute his claim in this cause [*or as may be*], as a pauper, and that E. F., esquire, may be assigned for his counsel, and Mr. G. H. for his solicitor, on such claim.

---

61. Motion paper for leave to appeal as a pauper (*i*). [Dan. Pr. 88.]

Formal parts: see Form 36.

To move on behalf of (the plaintiff) A. B., that he may be at liberty to prosecute his appeal from the judgment [*or*, order] made in this action [*or*, cause], and dated the —— day of ——, 188—, as a pauper; and that C. D., esquire, may be assigned for his counsel, and Mr. F. E. for his solicitor, on such appeal.

(2.) *Defendants* (*j*).

62. Petition of course for leave to defend as a pauper (*k*). [Dan. Pr. 165—166.]

Formal parts: see Form 39.

The humble petition of the above-named defendant C. D.

Showeth as follows:

In an action. 1. The plaintiff has commenced this action against your petitioner—*If so:* who has appeared thereto (*l*).

(*e*) See R. S. C. Ord. XVI. 22. Under the former practice the sum was £5.

(*f*) The affidavit as to poverty must be made by the party himself. If the statements of the case are verified by the solicitor (see Form 60) the party must depose to his poverty either in the same affidavit or separately.

(*g*) See R. S. C. Ord. XVI. 24.

(*h*) The order cannot be obtained on petition of course: Dan. Pr. 87, note (*p*). For form of order, see 2 Seton, 1646, No. 2.

(*i*) The analogy of the rules under R. S. C. Ord. XVI. ought to be followed with regard to an appeal by a pauper: see *Mandy* v. *Morrish*, 28 Sol. J. 67. The application must be made to the Court of Appeal. For form of order, see 2 Seton, 1646, No. 3.

(*j*) See R. S. C. Ord. XVI. 22, 25, 26—31.

(*k*) No opinion of counsel is required: for the provisions of R. S. C. Ord. XVI. 23, 24, apply only to the case of plaintiffs.

(*l*) The defendant need not enter an appearance before applying for the order; Dan. Pr. 166, note (*a*).

In a cause by originating summons. 1. A summons in this cause has been taken out on behalf of the above-named plaintiff, against your petitioner, whereby (*State relief sought by the summons*)—*If so:* and your petitioner has appeared thereto (*m*).

3. Your petitioner is not worth twenty-five pounds, his wearing apparel and the subject-matter of this action [*or*, cause] only excepted.

Your petitioner therefore humbly prays, that he may be at liberty to defend this action [*or*, cause] as a pauper; and that B. C., esquire, may be assigned for his counsel, and Mr. D. E. for his solicitor.

63.

Affidavit of defendant in support. [Dan. Pr. 166.]

Formal parts: see Form 6.

I am not worth the sum of twenty-five pounds: my wearing apparel and the subject-matter of this action [*or*, cause] only excepted.

(3.) *Discharge of Pauper Order.*

64.

Notice of motion to discharge, for irregularity, order to sue or defend as a pauper (*n*). [Dan. Pr. 90—91, 166.]

Formal parts: see Form 38.

on the part of (the defendant) A. B., that the order dated the ——, 188—, made on the application of (the plaintiff), whereby it was ordered that (the plaintiff) should be at liberty to prosecute this suit [*or as may be*] as a pauper, may be discharged on the ground that (*State the objections intended to be insisted upon.*)

Section IV.—Bankrupts (*a*).

(*Dan. Pr.*, pp. 101—104, 167—172, cccxl.—cccxli.)

(*a*) *Bankrupts.*—I. *Summary of Material Provisions of R. S. C.* 1883.

	Order.
No claims by trustee in bankruptcy as such can be joined with claims by him in any other capacity without leave .	XVIII. 3.
No abatement where cause of action continues . .	XVII. 1.
Trustee may be made a party, &c.	,, 2.

(*m*) See last note.

(*n*) For grounds on which a party will be dispaupered see Dan. Pr. 90—91; R. S. C. Ord. XVI. 28.

	ORDER.
Order to carry on proceedings may be obtained in case of bankruptcy	XVII. 4, 5.

II. *Material Provisions of Bankruptcy Act*, 1883 (46 & 47 *Vict. c.* 52).

Effect of Receiving Order.—On the making of a receiving order an official receiver is thereby constituted receiver of the property of the debtor, and thereafter, except as directed by the Act, no creditor to whom the debtor is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the debtor in respect of the debt, or shall commence any action or other legal proceedings unless with the leave of the Court, and on such terms as the Court may impose (the rights of secured creditors being saved).—S. 9.

Vesting and Transfer of Property.—(1.) Until a trustee is appointed the official receiver is trustee for the purposes of the Act, and immediately on a debtor being adjudged bankrupt the property of the bankrupt vests in the trustee.

(2.) On the appointment of a trustee the property forthwith passes to and vests in the trustee.

(3.) The property of the bankrupt passes from trustee to trustee, including under that term the official receiver when he fills the office of trustee, and vests in the trustee for the time being during his continuance in office, without any conveyance, assignment, or transfer whatever.—S. 54.

Actions by Trustee: how brought, &c.—The trustee may, with the permission of the committee of inspection, bring, institute or defend any action or other legal proceeding relating to the property of the bankrupt; and he may sue and be sued by the official name of "the trustee of the property of —— a bankrupt."—Ss. 57 (2), 83.

By rule 91 of The Bankruptcy Rules, 1883, when a trustee, under s. 57 of the Act, brings an action in the High Court concerning any matter not specially assigned by the Judicature Acts or by R. S. C. to a division other than that to which bankruptcy business is assigned, he is to bring his action in the division to which bankruptcy business is assigned, and the action will, unless the Court otherwise directs, be tried by the Judge assigned to transact and dispose of bankruptcy business.

As to official receivers, see Bankruptcy Act, 1883, ss. 66—71.

The official receiver is to act as trustee during any vacancy in the office of trustee.—S. 70 (9).

As to appointment of trustee, see s. 21.

As to effect of an order of discharge, see ss. 28—30.

As to pleading discharge under the Act, see s. 30 (3).

65.

Notice of motion or summons to stay proceedings on defendant's bankruptcy (*b*).

[46 & 47 Vict. c. 52, s. 10 (2).]

Formal parts: see Form 38 *or* 43.

on the part of the defendant [*or as may be*] that all further proceedings in this action may be stayed: a bankruptcy petition having, on the —— day of ——, 188—, been presented by [*or*, against] the defendant.

(*b*) *Staying proceedings in action against Bankrupt.*—The Bankruptcy Court may at any time after the presentation of a bankruptcy petition stay any action, execution or other legal process against the property or person of the debtor; and any Court in which proceedings are pending against a debtor, may, on proof that a bankruptcy petition has been presented by or against the debtor, either stay the proceedings or allow them to continue on such terms as it may think just: 46 & 47 Vict. c. 52, s. 10 (2).

66.

Notice of motion or summons by creditor for transfer of proceedings for administration of deceased debtor's estate (*c*). [46 & 47 Vict. c. 52, s. 125 (4).]

Formal parts : see Form 38 *or* 43.

on behalf of A. B., of, *&c.*, a creditor of the above named C. D. deceased, that the proceedings in this action may, pursuant to the 125th section of the Bankruptcy Act, 1883, be transferred to the —— Court of —— (*Name of Court exercising jurisdiction in Bankruptcy*) (*d*).

67.

Affidavit in support.

(*The affidavit in support of the application in* Form 66 *must prove :* (1) *The amount of the creditor's debt* (*e*) ; (2) *that the estate of the deceased debtor is insufficient to pay its debts* (*f*) ; *and* (3) *the Court within the jurisdiction of which the debtor resided or carried on business for the greater part of the six months immediately prior to his decease* (*e*).)

Section V.—Infants (*a*).

(*Dan. Pr.*, pp. 104—116, 173—181, cccxl.—cccxlii.)

(*a*) *Infants.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
A. *Plaintiffs.*	
Actions by : how brought	XVI. 16.
Consent of next friend	,, 20.
B. *Defendants.*	
Service :	
(1.) Of writ of summons	IX. 4.
(2.) Of notice of judgment	XVI. 44.
Appearance by guardian *ad litem :*	
(1.) To writ of summons	,, 18.
(2.) On petition, motion, or summons	,, 19.
(3.) On being served with notice of judgment	,, 41.
Application to discharge order to carry on proceedings :	
(1.) Where infant has a guardian *ad litem*	XVII. 6.
(2.) Where there is no such guardian	,, 7.
Proceedings in default of appearance	XIII. 1.
Costs of official solicitor when appointed guardian *ad litem*	LXV. 13.

(*c*) *Administration in Bankruptcy of Estate of person dying insolvent.*—A Court in which proceedings for the administration of a deceased debtor's estate have been commenced, may, on the application of *any* creditor, and on proof that the estate is insufficient to pay its debts, transfer the proceedings to the Court exercising jurisdiction in bankruptcy : 46 & 47 Vict. c. 52, s. 125 (4). Apparently any creditor duly qualified (as to qualification, see ss. 6, 125 (10)) may apply, though no party to the proceedings which it is desired to transfer. For form of administration order on the transfer being made, see Bankruptcy Rules, 1883, Form 32.

(*d*) As to the Court exercising jurisdiction in bankruptcy, see 46 & 47 Vict. c. 52, ss. 95, 125 (10).

(*e*) See 46 & 47 Vict. c. 52, s. 125 (10).

(*f*) *Ibid.*, s. 125 (4).

	Order.
C. *In General.*	
Consent to procedure on behalf of infant	XVI. 21.
Admissions of allegations of facts in pleadings	XIX. 13.
Proceedings where infant is party to a special case	XXXIV. 4.
Applications on behalf of infants in Chambers.	
(1.) Under Legacy Duty Act	LV. 2 (4).
(2.) Under 1 Will. IV. c. 65.	,, ,, (9).
(3.) Under Infants' Settlement Act (18 & 19 Vict. c. 43)	,, ,, (10).
(4.) As to guardianship and maintenance	,, ,, (12).

(1.) *Plaintiffs* (*aa*).

68.

Authority by next friend of an infant to use his name as such (*b*). [Dan. Pr. 107.]

I, A. B., of (*residence and addition*), authorise Mr. C. D., of (*Place of business*), to commence and prosecute an action in

Or, to make an application to

the Chancery Division of the High Court of Justice, on behalf of E. F., an infant, for (*State succinctly the object of the proposed proceeding; as thus:* the administration of the estate of X. Y., deceased), and to use my name in such action [*or*, proceeding], as the next friend of the said E. F.

Dated this —— day of——, 188—.

Witness (*bb*)

(*Title and reference to the record.*)

69.

Authority by new next friend to use his name and to continue proceedings. [Dan. Pr. 113.]

I, G. H., of (*residence and addition*), consent to be appointed, and to act as the next friend of the plaintiff, E. F., in this action, in the place of A. B. And I authorise Mr. C. D., of (*Place of business*), to use my name as such next friend, and to continue the prosecution of this action.

Dated, &c.

Witness (*bb*)

70.

Notice of motion or summons for removal of a next friend and approval of another (*c*). [Dan. Pr. 111—112.]

Formal parts: see Form 38 *or* 43.

on the part of the infant plaintiff, by G. H., of (*residence and addition*),

(*aa*) Infants may sue as plaintiffs by their next friends in the manner formerly practised in the Ch. D.: R. S. C. Ord. XVI. 16.

(*b*) This authority is required by R. S. C. Ord. XVI. 20. It must be filed at the Central Office, or District Registry, as the case may be. No person can be added as next friend of a plaintiff under any disability without his own consent in writing thereto: R. S. C. Ord. XVI. 11.

(*bb*) The authority must be attested: Rules of Practice Masters, 1880, 1881, 1882.

(*c*) For form of order, see 2 Seton, 705, No. 2. Where the next friend of an infant plaintiff was in such a position towards the accounting parties that he might be biassed in their favour, he was removed: *Re Burgess, Burgess* v. *Bottomley*, 25 Ch. D. 243: 32 W. R. 511.

his next friend for the purpose of this application (*d*), that A. B., the next friend of the plaintiff, may be removed, and that the said G. H., or some other proper person, may be approved as such next friend in his room. And that the plaintiff may be at liberty

If before judgment, say: to amend his writ of summons by inserting the name of the said G. H., or such other person, as his next friend in the room of the said A. B.

If after judgment, say: to name, the said G. H., or such other person, as his next friend in the room of the said A. B.

71.

Affidavit of fitness of new next friend (*e*).

Formal parts: see Form 6.

1. The above-named C. H., the plaintiff in this action, is still an infant under the age of twenty-one years.

2. I know and am well acquainted with G. H. of (*residence and addition*), the person proposed to be appointed the next friend of the plaintiff, by whom he may continue the prosecution of this action.

3. The said G. H. is (*State degree of relationship to, or connection with the family of, the infant; as thus:* the father of the said C. H.), and has no interest in the matters in question in this action adverse to that of the said C. H. In my judgment and belief the said G. H. is a fit and proper person to be appointed such next friend as aforesaid.

4. (*Show means of knowledge.*)

72.

Summons to substitute a next friend for one desirous to retire (*f*). [Dan. Pr. 112.]

Formal parts: see Form 43.

on the part of the infant plaintiff, by A. B. his next friend, that he may be at liberty

If before judgment, say: to amend his writ of summons, by inserting the name of C. D. of (*residence and addition*), as his next friend, in the room of the said A. B., who is desirous to retire.

Or if after judgment, say: to name C. D. of (*residence and addition*), as his next friend, in the room of the said A. B., who is desirous to retire.

(*d*) On every application on behalf of an infant, but not by his next friend in the action, a next friend must be named for the purpose of the application: Dan. Pr. 113.

(*e*) The plaintiff's solicitor must swear that the proposed next friend has no adverse interest; where he is unable to depose to the other facts, another deponent must be joined, and the affidavit varied accordingly.

(*f*) For form of order, see 2 Seton, 105, No. 2. As to security for costs in such case, see Dan. Pr. 112.

73.

Motion paper to appoint a new next friend in lieu of one deceased (*g*). [Dan. Pr. 112, 113.]

Formal parts : see Form 36.

To move on behalf of the infant plaintiff, by A. B. of (*residence and addition*), his next friend for the purpose of this application (*i*), that he may be at liberty

If before judgment, say : to amend his writ of summons by inserting the name of the said A. B. as his next friend, in the room of C. D. now deceased.

Or if after judgment, say : to name the said A. B. as his next friend, in the room of C. D. now deceased.

74.

Petition of course for the like (*g*). [Dan. Pr. 113.]

Formal parts : see Form 39.

The humble petition of the infant plaintiff, by A. B. of (*residence and addition*), his next friend for the purpose of this application.

Showeth as follows :

If before judgment, say : 1. Your petitioner, by C. D. his next friend, issued a writ of summons in this action against the defendants, who have appeared thereto (*State the subsequent proceedings in, and the present position of, the action ; as thus :* and a statement of claim has been delivered, but no statement of defence has yet been delivered).

If after judgment, say : 1. Your petitioner, by C. D. his next friend, issued a writ of summons in this action against the defendants ; and judgment was given therein on the —— of ——, 188—, whereby certain accounts and inquiries were directed to be taken and made ; but the Chief Clerk has not yet made his certificate of the result thereof [*or as may be*].

2. The said C. D. died on the ——, 188—, and your petitioner is desirous that the said A. B. may be approved as his next friend, in lieu of the said C. D.

Your petitioner therefore humbly prays, that he may be at liberty (*Continue as in* Form 73 to the end).

75.

Notice of motion or summons to appoint a next friend in lieu of one incapacitated or removed (*h*). [Dan. Pr. 113.]

Formal parts : see Form 38 *or* 43.

on the part of the infant plaintiff, by A. B. of (*residence and addition*), his next friend for the purpose of this application (*i*), that he may be at liberty

(*g*) The consent of the proposed new next friend must be shown. For form of consent see Form 69. For form of order, see 2 Seton, 705, No. 1.

(*h*) The application must be supported by an affidavit of the circumstances. The fitness of the proposed new next friend is not required to be shown : Dan. Pr. 113. The consent of the proposed new next friend must be shown ; for form of consent, see Form 69.

(*i*) See note (*d*) to Form 70.

If before judgment, say: to amend his writ of summons by inserting the name of the said A. B. as his next friend, in the room of C. D. who is incapacitated from acting [*or*, who, by an order, dated the —— of ——, 188—, has been removed].

Or, if after judgment, say: to name the said A. B. as his next friend, in the room of C. D. who is incapacitated (*&c., as above*).

76.

Notice of motion or summons to dismiss action where no next friend named. [Dan. Pr. 106.]

Formal parts: see Form 38 *or* 43.

on the part of the defendants, that this action may be dismissed with costs to be paid by Mr. C. D., the plaintiff's solicitor, to the defendants, on the ground that no next friend has been named on behalf of the plaintiff therein, who is an infant.

77.

Notice of motion or summons by defendants, that a new next friend may be appointed (*j*). [Dan. Pr. 113.]

Formal parts: see Form 38 or 43.

on the part of the defendants, that some fit and proper person may be appointed as the next friend of the plaintiff, in the room of A. B. above-named, who has died [*or*, become incapable of acting; *or*, been removed].

78.

Notice of motion or summons for dismissal of, or inquiry as to, a single action by an infant. [Dan. Pr. 108.]

Formal parts: see Form 38 *or* 43.

on behalf of the infant plaintiff, by C. D. of (*residence and addition*), his next friend for the purpose of this application (*k*),

Or, on behalf of the defendant E. F.,

that this action may be dismissed; and that G. H., the next friend of the plaintiff therein may be ordered to pay to the defendant his costs of and occasioned by this action, and his [*or*, and to the defendant and the said C. D. their] costs of this application:

Or that an inquiry may be made whether this action has been properly instituted; and whether it will be fit and proper, and for the benefit of the infant plaintiff, that the same should be further prosecuted; and if so, whether the said G. H. is a proper person to be the plaintiff's next friend; and if he is not, that some proper person may be appointed as next friend of the plaintiff to have the conduct of this action in the place of the said G. H. And that all other proceedings in this action may be stayed, in the meantime (*kk*).

(*j*) The application should be supported by an affidavit of the circumstances.

(*k*) See note (*d*) to Form 70.

(*kk*) For form of order, see 2 Seton, 707, No. 7.

79.

Motion paper for inquiry which of two actions is for infant plaintiff's benefit (*l*). [Dan. Pr. 107.]

Titles of both actions; other formal parts: see Form 36.

To move on behalf of the infant plaintiff by C. D., his next friend in the first [*or*, second] mentioned action,

Or, on behalf of the defendant,

that an inquiry may be made whether both these actions are touching the same matters; and if so, which of these actions it will be most for the benefit of the infant plaintiff to prosecute; and that in the meantime all other proceedings in these actions may be stayed.

Both actions are for the same purpose; no judgment has been pronounced in either; and neither is in the paper for trial.

80.

Notice of motion for the like (*m*). [Dan. Pr. 107.]

Titles of both actions; other formal parts: see Form 38.

on the part of the infant plaintiff by C. D., his next friend in the first [*or*, second] mentioned action,

Or, on the part of the defendant,

(*Continue as in* Form 79 *to* stayed.)

81.

Notice of motion to stay one action, on certificate that the other should be prosecuted (*mm*). [Dan. Pr. 108.]

Titles of both actions; other formal parts: see Form 38.

on the part of the infant plaintiff by C. D., his next friend in the first [*or*, second] mentioned action,

Or, on the part of the defendant,

that all further proceedings in the second [*or*, first] mentioned action may be stayed; and that G. H., the next friend of the plaintiff therein, may be ordered to pay to the said C. D., and also to the defendant E. F., their costs of and occasioned by the said second [*or*, first] mentioned action, and of the application for the order dated the —— day of ——, 188— (*Order directing inquiry which of the two actions should be prosecuted*), and of the inquiry thereby directed, and of and relating to this application.

82.

Notice of motion to stay infant's action, after judgment in another action for same purpose (*n*). [Dan. Pr. 108.]

Titles of both actions; other formal parts: see Form 38.

on the part of the infant plaintiff by C. D., his next friend in the first mentioned action,

Or, on the part of the defendant,

that all further proceedings in the second-mentioned action may be

(*l*) This form is applicable to the case where both actions are attached to the same judge, and neither of them is in the paper for hearing.

(*m*) This form is applicable to the case where the actions were instituted in different branches of the Court, and an order has been obtained for a transfer of one of such actions. For form of order, see 2 Seton, 707, No. 8.

(*mm*) For form of order, see 2 Seton, 707, No. 9.

(*n*) For form of order, see 2 Seton, 788, No. 10.

stayed; and that G. H., the next friend of the plaintiff therein, may be ordered to pay to the said defendant his costs of the said second-mentioned action; and may also be ordered to pay to the said C. D. and to the said defendant their costs of this application.

83.

Summons to strike out name of infant co-plaintiff, and make him a defendant. [Dan. Pr. 110.]

Formal parts: see Form 43.

on the part of the plaintiffs, that the name of the infant plaintiff A. B. may be struck out as a party plaintiff in this action, and may be inserted as a party defendant thereto.

84.

Motion paper by sole plaintiff, on coming of age, to dismiss action with costs, before judgment (*o*). [Dan. Pr. 114.]

Formal parts: see Form 36.

To move on behalf of the plaintiff, late an infant but now adult, that this action may stand dismissed: with costs to be paid by the plaintiff to C. D., late his next friend, and to the defendants.

85.

Petition of course for the like. [Dan. Pr. 114.]

Formal parts: see Form 39.

The humble petition of the plaintiff, late an infant, but now of full age.

Showeth as follows:

1. Your petitioner, when an infant, by C. D. his next friend, issued a writ of summons in this action against the defendants: to which they appeared; but no judgment has yet been given in this action.

2. Your petitioner has now attained his age of twenty-one years; and is desirous not to proceed any further in the said action.

Your petitioner therefore humbly prays, that this action may stand dismissed: with costs to be paid by him to the said C. D., and to the defendants.

86.

Notice of motion to stay proceedings after judgment, in like case. [Dan. Pr. 114.]

Formal parts: see Form 38.

on behalf of the plaintiff, late an infant, but now of full age, that on payment by him to C. D., late his next friend, and to the defendants, of their costs of this action, all further proceedings therein may be stayed.

87.

Notice of motion by a co-plaintiff, on coming of age, to strike out his name as plaintiff (*o*). [Dan. Pr. 114.]

Formal parts: see Form 38.

on behalf of the plaintiff A. B., late an infant, but now of full age, that his name may be omitted in all future proceedings in this action, as a party co-plaintiff therein.

(*o*) For forms of order, see *Bicknell* v. *Bicknell*, M. R. 30 April, 1863, Reg. Lib. A. 1017; *Sanger* v. *Sanger*, M. R. 19 June, 1868, Reg. Lib. B. 1574. The orders in

(2.) *Defendants* (*p*).

88. Summons for leave to serve infant defendant personally (*q*). [Dan. Pr. 173.]

Formal parts: see Form 43.

on the part of the plaintiff, that service of the writ of summons in this action by delivering a copy thereof, together with a copy of the order to be made hereon, to the defendant A. B., who is an infant of the age of —— years, may be deemed good service thereof on him.

89. Affidavit in support. [Dan. Pr. 173.]

Formal parts: see Form 6.

1. *State grounds for service on infant personally; as thus:* The said defendant A. B. is of the age of twenty years or thereabouts, and is clerk to Messrs. E. and F., of No. 205, Cornhill, in the city of London, solicitors. He has no father or guardian.

2. (*Show means of knowledge.*)

---

90. Summons that service made on an infant shall be deemed good service (*r*).

Formal parts: see Form 43.

on the part of the plaintiff, that service of the writ of summons in this action, which has been effected by serving the same upon the infant defendant A. B. personally, may be deemed good service thereof on the said defendant A. B.

91. Affidavit in support.

(*The affidavit should prove the service of the writ on the infant defendant* (*see* Form 414); *and should show the grounds for adopting such mode of service* (*see* Form 89).)

the cases cited also directed, on the application of counsel for the remaining plaintiffs, that the name of the applicant be inserted as a defendant in all future proceedings in the cause. For forms of order, see 2 Seton, 708, Nos. 11, 12.

(*p*) For statement of the provisions of R. S. C., 1883, with respect to infant defendants, see note (*a*), p. 38.

(*q*) Service on an infant is ordinarily effected by service on his father or guardian, or, if none, on the person with whom the infant resides, or under whose care he is; but the Court or Judge may order that service made or to be made on the infant shall be deemed good service: R. S. C. Ord. IX. 4. For forms of orders, on summons, for leave to serve, and adopting service, on infant defendant, see 2 Seton, 1624, Nos. 7, 8.

(*r*) R. S. C. Ord. IX. 4. For form of order, see 2 Seton, 1624, No. 8.

92.

Affidavit for entry of appearance by guardian (*s*). [Dan. Pr. 173, cccxli.]

Formal parts: see Form 6.

I, ——, of ——, make oath and say as follows:

1. A. B., of ——, is a fit and proper person to act as guardian *ad litem* of the above-named infant defendant C. D., and has no interest in the matters in question in this action [*or*, matter] adverse to that of the said infant; and the consent of the said A. B. to act as such guardian is hereto annexed.

93.

Consent to act as guardian *ad litem* of infant defendant (*t*). [Dan. Pr. 173, cccxli.]

(*Title and reference to the record.*)

I, G. H., of (*residence and addition*), consent to be appointed guardian *ad litem* of E. F., a defendant in this action.

Or, of E. F., who has been served with notice of the judgment dated the —— day of ——, 188—, in this action.

Or, of E. F., who has been served with the petition presented by—*or*, notice of motion served on behalf of—*or*, summons taken out on behalf of—A. B. in this action [*or*, matter].

And I authorise Mr. X. Y., of (*Place of business*), to defend this action

Or, to enter an appearance in this action, and attend the proceedings under the said judgment

Or, to appear on the hearing of the said petition—*or*, motion—*or*, summons

on behalf of the said E. F., by me as such guardian.

Dated the —— day of ——, 188—.

94.

Notice of motion or summons by plaintiff, that a guardian may be assigned an infant defendant (*u*). [Dan. Pr. 174, 175, cccxlii.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff, that Mr. Henry Leigh Pemberton, the

(*s*) An infant must enter an appearance to a writ of summons, or appear on the hearing of a petition, motion, or summons which has been served on him (except where the appointment of a special guardian is required), by his guardian *ad litem*. No order for the appointment of such guardian is necessary, but the solicitor applying to enter such appearance must make and file an affidavit in the form given in Appendix A., Pt. 2, Form 8, with such variations as circumstances may require: R. S. C. Ord. XVI. 18, 19. The form in the text is that so given.

(*t*) The consent must be annexed to the affidavit, see R. S. C., App. A., Pt. II., Form 8. As to the powers and duties of a guardian *ad litem*, see Dan. Pr. 175—177; Morgan, 476, note (*g*).

(*u*) Where no appearance has been entered to a writ of summons for a defendant who is an infant, or a person of unsound mind not so found by inquisition, the plaintiff *shall before further proceeding with the action against the defendant* apply to the Court or a Judge for an order that some proper person be assigned guardian of such defendant, by whom he may appear and defend the action. But no such order is to be made unless it appears on the hearing of the application that the writ of summons was duly served, and that notice of such application was, after the expiration of the time allowed for appearance, and at least *six* clear days

official solicitor of the Supreme Court, or some other proper person (*v*), may be assigned the guardian of the defendant A. B., an infant, by whom he may appear and defend this action [*or*, by whom he may defend this action].

95.
Affidavit in support.
[Dan. Pr. 174.]

Formal parts: see Form 6.

1. (*Prove service of the writ of summons* (*w*).)

2. The said defendant A. B. is an infant under the age of twenty-one years.

3. On the —— day of ——, 188—, I served C. D. of (*residence and addition*), who is the person with whom or under whose care the said defendant A. B. was, at the time of serving the writ of summons in this action in manner aforesaid,

If C. D. *is the father or guardian of the infant, add:* and who is also the father [*or*, guardian] of the said A. B.,

If C. D. *is not the father or guardian, add:* and on the —— day of ——, 188—, I also served E. F., of (*residence and addition*), who is the father [*or*, guardian] of the said A. B. (*x*),

with a notice in writing intituled in this action and purporting that (*here recite the notice*) by (*here describe the mode of service* (*y*), *as:*)

delivering a true copy of the said notice to, and leaving the same with, the said C. D. personally at (*State where*); *or*,

leaving a true copy of the said notice at (*State where*) the dwelling-house of the said C. D., with a servant [*or as may be*] of the said C. D.;

If C. D. *is not the father or guardian, and the father or guardian has been served, add:* and by delivering another true copy of the said notice to, and leaving the same with, the said E. F. personally at (*State where*); *or*,

and by leaving another true copy of the said notice at (*State where*),

before the day in such notice named for hearing the application, served upon or left at the dwelling-house of the person with whom or under whose care such defendant was at the time of serving such writ of summons, and also (in the case of such defendant being an infant not residing with or under the care of his father or guardian,) served upon or left at the dwelling-house of the father or guardian, if any, of such infant, unless the Court or Judge at the time of hearing such application shall dispense with such last-mentioned service: R. S. C. Ord. XIII. 1. The rule is now made imperative. For form of order, see 2 Seton, 706, No. 6. The rule applies to a case where proceedings are commenced by originating summons: *In re Pepper, Pepper* v. *Pepper*, W. N. (1884), 141: 32 W. R. 765. For cases in which service on the father or guardian has been dispensed with, see Dan. Pr. 174; Morgan, 468, n. (*d*).

(*v*) As to the costs of the official solicitor, where he is appointed, see R. S. C. LXV. 13: Dan. Pr. 175, note (*r*).

(*w*) For form of affidavit of service of writ, see Form 414.

(*x*) If the father or guardian is not served the reason should be stated in the affidavit.

(*y*) As to service of notice of the application, see R. S. C. Ord. XIII. 1; note (*u*) to Form 94.

the dwelling-house of the said E. F., with a servant [*or as may be*] of the said E. F.

4. (*Show means of knowledge.*)

96.

Consent of new guardian *ad litem* to act. [Dan. Pr. 175.]

(*Title and reference to the record.*)

I, A. B. of (*residence and addition*), consent to be appointed, and to act in the place of L. M., as guardian *ad litem* of C. D., a defendant in this action.

Or, of C. D., who is attending the proceedings under the judgment in this action.

Or, of C. D., who has been served with the petition presented by ——*or*, notice of motion served on behalf of ——, *or*, summons taken out by—E. F., in this action [*or*, matter ; *or as may be*].

And I authorise Mr. G. H., of (*Place of business*), to defend this action

Or, to attend the said proceedings

Or, to appear upon the said petition [*or*, motion—*or*, summons—*or as may be*]

on behalf of the said C. D., by me as such guardian.

Dated —— day of ——, 188—.

97.

Motion paper by defendant, for a guardian to be assigned him, in lieu of one deceased (*z*). [Dan. Pr. 173, 175.]

Formal parts : see Form 36.

To move on behalf of the defendant A. B. an infant, by C. D. of (*residence and addition*), his next friend, that the said C. D. may be assigned his guardian, by whom he may defend this action, in the room of G. H., now deceased.

An affidavit in support accompanies.

98.

Petition of course for the like (*z*). [Dan. Pr. 173, 175.]

Formal parts : see Form 39.

The humble petition of the defendant A. B. an infant, by C. D. of (*residence and addition*), his next friend.

Showeth as follows :

1. The plaintiff issued a writ of summons in this action against your petitioner : who appeared thereto by G. H. as his guardian *ad litem*.

2. The said G. H. died on the —— of ——, 188—.

3. The said C. D. has no interest in the subject-matter of this action

(*z*) Though no order is required to appoint an original guardian *ad litem* (see note (*s*) to Form 92), it seems that an order is still necessary if a guardian *ad litem* dies pending the action.

adverse to your petitioner, and is a proper person to be assigned his guardian *ad litem*.

Your petitioner therefore humbly prays, that the said C. D. may be assigned his guardian, by whom he may defend this action, in the room of the said G. H.

99.
Affidavit in support of motion or petition. [Dan. Pr. 173, 175.]

Formal parts: see Form 6.

1. G. H., the guardian *ad litem* of the defendant A. B. in this action, died on the —— of ——, 188—; and no person has since been assigned such guardian.

2. The said A. B. is still under the age of twenty-one years.

3. I know and am well acquainted with C. D., of (*residence and addition as in motion paper or petition*), the person proposed to be assigned the guardian of the said A. B., by whom he may defend this action

4. The said C. D. is (*state degree of relationship to, or connection with the family of, the infant; as thus:* the maternal uncle of the said A. B.), and has no interest in the matters in question in this action adverse to the interest therein of the said A. B.; and in my judgment and belief the said C. D. is a fit and proper person to be assigned such guardian as aforesaid.

5. (*Show means of knowledge.*)

100.
Notice of motion, or summons, for removal of a guardian and appointment of another (*a*). [Dan. Pr. 175, 176.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant A. B., by C. D. of (*residence and addition*), his next friend for the purpose of this application, that E. F., the guardian *ad litem* of the said A. B., (*if assigned by order as in* Forms 97 *and* 98 *say*—assigned by order dated the —— day of ——, 188—,) may be removed. And that the said C. D., or some other proper person, may be assigned such guardian, in the room of the said E. F.

101.
Præcipe for *subpœna* for infant defendant, on coming of age, to show cause against judgment (*b*). [Dan. Pr. 179.]

188—. B. No. .

In the High Court of Justice,
Chancery Division.

B. v. D. } Seal a *subpœna* directed to C. D., to show cause against the judgment of this Court, dated the —— day of ——, 188—.

Returnable —— day of ——, 188—.

Tested —— day of ——, 188—.

X. Y., of (*Place of business*), agent for
T. Z., of (*Place of business*), plaintiff's solicitor.
Or, A. B., of (*address*), plaintiff in person.

(*a*) The application should be supported by an affidavit of the circumstances, and of the fitness of the proposed new guardian. For form of consent by the proposed new guardian to act, see Form 96.

(*b*) For the grounds on which, and how, a judgment may be impeached by an

102.

Writ of *subpœna* (*c*). [Dan. Pr. 179.]

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To (*Insert name of defendant*), greeting :

We command you that within —— days (*d*) after the service of this writ on you, exclusive of the day of such service, you do show unto the Chancery Division of our High Court of Justice good cause why a certain judgment of our said High Court of Justice, made on the —— day of ——, 188—, in a certain action wherein A. B. is plaintiff, and C. D. is defendant,

Or, wherein A. B. and others [*or*, another] are plaintiffs, and C. D. and others [*or*, another] are defendants,

should not be binding upon you. In default whereof such judgment will stand, and be absolute against you.

Witness, ————, Lord High Chancellor of Great Britain [*or*, Lord Chief Justice of England], the —— day of ——, in the year of our Lord one thousand eight hundred and eighty —— (*e*).

103.

Indorsement therein.

(*The same as* Form 3 *or* 4.)

104.

Motion paper for leave to serve *subpœna* out of jurisdiction (*f*). [Dan. Pr. 179.]

Formal parts : see Form 36.

To move on behalf of the plaintiff, that he may be at liberty to serve at ——, or elsewhere in the (kingdom) of ——, a *subpœna* directed to the defendant C. D., to show cause why the judgment, dated the —— day of ——, 188—, should not be binding upon him.

The judgment and affidavit in support accompany.

105.

Motion paper for substituted service of the *subpœna* (*g*). [Dan. Pr. 179.]

Formal parts : see Form 36.

To move on behalf of the plaintiff, that service of a *subpœna*, directed to the defendant C. D., to show cause why the judgment, dated the ——,

infant defendant on coming of age, and the practice as to giving him a day to show cause, see Dan. Pr. 176—181 ; 2 Seton, 712—714. For recent cases in which a day to show cause has been inserted in orders, see *Gray* v. *Bell*, 30 W. R. 606 ; *Mellor* v. *Porter*, 25 Ch. D. 158 : 32 W. R. 271. For form of order, see 2 Seton, 711, No. 1.

(*c*) This form of *subpœna* is given in Cons. Ord. Appendix, Sched. (E), No. 6. No form is given in R. S. C. 1883. But it is presumed that the former practice still remains in force : R. S. C. Ord. LXXII. 2.

(*d*) Eight is the usual number inserted.

(*e*) See R. S. C. Ord. II. 8.

(*f*) For form of affidavit in support, see Form 1088.

(*g*) For form of affidavit in support, see Form 990. A copy of the order for substituted service must be served with the *subpœna*.

188—, should not be binding upon him, upon (*State mode of service proposed; as thus:*

A. B. and D. E., members of the firm of B. and E., of No. 18, New Square, Lincoln's Inn, or one of them),

may be deemed good service on the defendant C. D.

The judgment and affidavit in support accompany.

106.

Motion paper to make judgment absolute (*h*). [Dan. Pr. 179, 180.]

Formal parts: see Form 36.

To move on behalf of the plaintiff, that the judgment, dated the ——, 188—, may be made absolute against the defendant C. D.

The judgment, affidavit in support, and certificate of no cause shown, accompany.

107.

Affidavit in support. [Dan. Pr. 180.]

Formal parts: see Form 6.

1. *Show that defendant is of age; as thus:* C. D., the defendant [*or*, one of the defendants] in this action, is the same person as C., the son of E. D., and F. his wife, named in the paper writing marked A., now produced and shown to me (*i*), and purporting to be a certified copy of an entry in the register book of baptisms kept for the parish of A., in the county of B., in the year 186—: as I know from (*Show means of knowledge*).

2. *Prove service* (*j*) *of the subpœna to show cause; as thus:* On the —— day of ——, 188—, I served the defendant C. D. with a *subpœna*, dated the —— day of ——, 188—, issuing out of, and under a seal of the Central Office of this honourable Court, by delivering a true copy of the said *subpœna*, and of the indorsement thereon, to, and leaving the same with,

If service personal, say: the said defendant C. D., at (*State where*), in the county of ——.

If service not personal, say: the wife [*or*, son; *or*, servant] of the said defendant C. D., at the dwelling-house or usual place of abode of the said defendant C. D., situate at (*State where*), in the county of ——.

In case of substituted service, say: G. H., the person named in the order hereinafter mentioned, at (*State where*), in the county of ——;

And I, at the time of such service, produced and showed unto the said defendant C. D.,

(*h*) For form of order absolute, see 2 Seton, 711, No. 2.

(*i*) Exhibit the certificate. For form of memorandum of exhibit, see Form 28.

(*j*) As to mode of service, see Dan. Pr. 179.

Or, unto the said wife [*or*, son; *or*, servant] of the said defendant C. D.,

Or, unto the said G. H.,

the said original *subpœna*, so under seal as aforesaid.

3. *In cases of substituted service, say:* The said G. H. is the person of that name mentioned in the order made in this action, dated the —— day of ——, 188—, whereby it was ordered that (*Set out directions as to substituted service*); and at the time of the aforesaid service of the said *subpœna*, I also served the said G. H. with the said order, by delivering to, and leaving with him, a true copy of the said order, and I at the same time produced and showed to him such original order, duly passed and entered (*k*).

4. By the said *subpœna* the said C. D. was commanded that (*Recite the subpœna down to:* and be absolute; *and add:* against the said C. D.).

Section VI.—Lunatics and Persons of Unsound Mind (*a*).

(*Dan. Pr.*, pp. 116—119, 181—185.)

(*a*) *Lunatics, &c.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
A. *Plaintiffs.*—Actions by, how instituted	XVI. 17.
Consent of next friend	,, 20.
B. *Defendants.*—Service (1) of writ of summons	IX. 5.
(2) of notice of judgment	XVI. 44.
Defence by committee or guardian *ad litem*	,, 17.
Appearance on being served with notice of judgment	,, 41.
Proceedings in default of appearance	XIII. 1.
Application to discharge order to carry on proceedings—	
(1.) Where defendant has a guardian *ad litem*	XVII. 6.
(2.) Where he has no such guardian	,, 7.
Costs of official solicitor if appointed guardian *ad litem*	LXV. 13.
C. *In General.*	
Consent to procedure on behalf of lunatic, &c.	XVI. 21.
Admissions of allegations of facts in pleadings	XIX. 13.

(1.) *Plaintiffs* (*b*).

108.

Next friend of lunatic or person of unsound mind (*c*). [Dan. Pr. 116—119.]

See the following forms, which can be readily adapted to the cases of lunatics or persons of unsound mind, by substituting the words "lunatic" *or* "person of unsound mind not so found," *as the case may be, for* "infant."

(*k*) See note (*g*) to Form 105.

(*b*) Where lunatics and persons of unsound mind not so found by inquisition might respectively before the passing of the Judicature Act, 1873, have sued as plaintiffs in any action or suit, they may sue as plaintiffs in any action by their committee or next friend according to the practice of the Ch. D.: R. S. C. Ord. XVI. 17. As to mode of procedure by committee or next friend, see Dan. Pr. 116—119.

(*c*) The next friend's authority to use his name must be filed in the Central Office, or District Registry, as the case may be: R. S. C. Ord. XVI. 20.

	No. of Form.
Authority of next friend to use his name	68
Authority of new next friend to use his name and to continue proceedings	69
Notice of motion or summons for removal of a next friend and approval of another	70
Summons to substitute a next friend for one desirous to retire	72
Motion paper to appoint new next friend in lieu of one deceased	73
Petition of course for the like	74
Notice of motion or summons to appoint new next friend in lieu of one incapacitated or removed	75
Notice of motion or summons by defendant that a new next friend may be appointed	77

109.

Affidavit of fitness of next friend of lunatic (*d*).

Formal parts: see Form 6.

1. The plaintiff A. B., has, by proceedings in lunacy, been found to be a person of unsound mind.

2. The defendant E. F. has been appointed, and is now, the committee of the estate of the said plaintiff, but he has an interest in the matter in question in this action adverse to the interest therein of the said plaintiff: in respect whereof he has been made a defendant to this action.

3. I know and am well acquainted with C. B., of (*Continue as in* Form 71, *to the end*).

110.

The like in case of person of unsound mind.

Formal parts: see Form 6.

1. The plaintiff A. B. is a person of unsound mind not so found by inquisition.

2. I know and am well acquainted with G. H. of (*&c., Continue as in* Form 71, *to the end*).

111.

Petition of course to appoint new next friend of lunatic in lieu of one deceased (*e*). [Dan. Pr. 117, note (*f*).]

Formal parts: see Form 39.

The humble petition of the plaintiff X. Y., a person of unsound mind so found, by A. B., of (*residence and addition*), his next friend for the purpose of this application.

Showeth as follows:

1. Your petitioner has, by proceedings in lunacy, been found to be a person of unsound mind, and the defendant E. F. has been appointed, and now is, the committee of your petitioner's estate.

(*d*) The plaintiff's solicitor must swear that the committee of the plaintiff's estate (if any) has an adverse interest, and that the proposed new next friend has no adverse interest; where he is unable to depose to the other facts another deponent must be joined, and the affidavit varied accordingly.

(*e*) For form of consent of proposed new next friend to act, see Form 69; for form of affidavit of his fitness, see Form 71.

2. The said E. F. has an interest in the matters in question in this action adverse to the interest therein of your petitioner.

3. Your petitioner, by C. D., his next friend, issued a writ of summons in this action (*Continue as in* Form 73, *to the end*).

112.

The like in case of person of unsound mind (*e*).

Formal parts: see Form 39.

The humble petition of the plaintiff, a person of unsound mind not so found, by A. B., of (*residence and addition*), his next friend for the purpose of this application.

Showeth as follows:

1. Your petitioner (*Continue as in* Form 74, *to the end*).

113.

Summons to stay proceedings where lunatic or person of unsound mind sues neither by committee nor by next friend. [Dan. Pr. 117.]

Formal parts: see Form 43.

on the part of the defendants, that all proceedings in this action in which the plaintiff, who is a person of unsound mind so found by inquisition, sues neither by the committee of his estate nor [*or*, not so found by inquisition does not sue] by a next friend, may be stayed, until a next friend be named for the said plaintiff.

114.

Notice of motion by plaintiff, falsely alleged to be of unsound mind, that action may be dismissed with costs (*f*). [Dan. Pr. 119.]

Formal parts: see Form 38.

on the part of A. B., the above-named plaintiff,

1. That this action may be dismissed with costs: the same having been commenced without the authority of the plaintiff, who is falsely alleged in the writ of summons therein to be a person of unsound mind.

2. That the defendant's costs of this action, including the costs of this application, may be taxed as between party and party; and that the above-named G. H. may be ordered to pay such costs to the defendants.

3. That the costs of the said A. B. of this application may be taxed as between solicitor and client; and that the said G. H. may be ordered to pay such costs to the said A. B.

(2.) *Defendants* (*g*).

115.

Summons for special service on defendant, who is a lunatic or of unsound mind (*h*). [Dan. Pr. 119.]

Formal parts: see Form 43.

on the part of the plaintiff, that service of the writ of summons in

(*e*) See note (*e*) to Form 111.

(*f*) See *Palmer* v. *Walesby*, L. R. 3 Ch. 732.

(*g*) For summary of material provisions of R. S. C., 1883, in case of defendants being lunatic or of unsound mind, see note (*a*), *supra*.

Where a lunatic, or a person of unsound mind not so found by inquisition, would respectively before the passing of the Judicature Act, 1873, have been liable to be sued as defendant in any action or suit, he may defend any action by his committee or guardian appointed for that purpose according to the practice of the Chancery Division: R. S. C. Ord. XVI. 17.

(*h*) When a lunatic, or a person of unsound mind not so found by inquisition, is a

this action on (*name, residence and addition of person whom it is proposed to serve*) may be deemed good service thereof on the defendant A. B.

116.
Affidavit in support where defendant is a lunatic.
[Dan. Pr. 182.]

Formal parts: see Form 6.

1. The above-named defendant A. B. has by proceedings in lunacy been found to be a person of unsound mind.

2. (*State special grounds for not serving the committee of the estate of the lunatic; also the reasons for adopting the mode of service mentioned in the summons.*)

3. (*Show means of knowledge.*)

117.
The like where defendant is a person of unsound mind not so found.
[Dan. Pr. 182.]

Formal parts: see Form 6.

1. The above-named defendant A. B. is a person of unsound mind not so found by inquisition.

2. (*State special grounds for not serving the person with whom such defendant resides, or under whose care he or she is; also the reasons for adopting the mode of service mentioned in the summons.*)

118.
Guardian *ad litem* of lunatic or person of unsound mind.

See the following forms, which can be readily adapted to the cases of lunatics and persons of unsound mind, by substituting the words "lunatic" *or* "person of unsound mind not so found," *as the case may be, for* "infant."

	No. of Form.
Consent to act as guardian *ad litem*	93.
Consent of new guardian *ad litem* to act	96.
Motion paper for guardian *ad litem* to be assigned in lieu of one deceased	97.
Petition of course for the like	98.
Notice of motion or summons for removal of guardian *ad litem* and appointment of another	100.

119.
Motion paper by a defendant found to be of unsound mind, for a guardian to be assigned him, where his committee is adversely interested (*i*).
[Dan. Pr. 182.]

Formal parts; see Form 36.

To move on behalf of the defendant A. B., a person of unsound mind

defendant to an action, service on the committee of the lunatic, or on the person with whom the person of unsound mind resides or under whose care he is, will, unless the Court or Judge otherwise orders, be deemed good service on the defendant: R. S. C. Ord. IX. 5.

(*i*) Before making the application, an appearance should be entered for the defendant. For form of order on motion of course, see 2 Seton, 706, No. 5.

so found, by C. D., of (*residence and addition*), his next friend, that the said C. D. may be assigned his guardian by whom he may defend this action: his committee, the defendant E. F., having an adverse interest

An affidavit in support accompanies.

120.

Petition of course for the like. [Dan. Pr. 182.]

Formal parts: see Form 39.

The humble petition of the defendant A. B., a person of unsound mind so found, by C. D. of (*residence and addition*), his next friend.

Showeth as follows:

1. The plaintiff has issued a writ of summons in this action against your petitioner: who has appeared thereto.

2. Your petitioner has, by proceedings in lunacy, been found to be a person of unsound mind; and the defendant E. F., has been appointed and is now the committee of your petitioner's estate.

3. The said E. F. has an interest in the matters in question in this action adverse to the interest of your petitioner therein.

4. The said C. D. has no interest in this action adverse to your petitioner; and is a proper person to be assigned his guardian *ad litem*.

Your petitioner therefore humbly prays, that the said C. D. may be assigned his guardian, by whom he may defend this action.

121.

Affidavit in support of motion or petition (*j*). [Dan. Pr. 182.]

Formal parts: *see* Form 6.

1. The defendant A. B. has been served with the writ of summons in this action, and has appeared thereto.

2. The said A. B. has, by proceedings in lunacy, been found to be a person of unsound mind; and the defendant E. F. has been appointed and is now the committee of his estate.

3. The said E. F. has an interest in the matters in question in this action, adverse to the interest of the defendant A. B. therein.

4. I know and am (*Continue as in paragraph* 3 *of* Form 99, *to the end of that Form*).

122.

Motion paper by a defendant of unsound mind not so found, for a guardian to be assigned him (*k*). [Dan. Pr. 182.]

Formal parts: see Form 36.

To move on behalf of the defendant A. B., a person of unsound mind

(*j*) The affidavit that the committee has an adverse interest, and that the proposed guardian has no adverse interest, must be made by the solicitor; if he is unable to depose to the other facts, another deponent must be joined, and the affidavit altered accordingly.

(*k*) Before the application is made, an appearance should be entered on behalf of the defendant: Dan. Pr. 183. For form of order, see 2 Seton, 705, No. 3.

not so found, by C. D., of (*residence and addition*), his next friend for the purpose of this application, that the said C. D. may be assigned his guardian, by whom he may defend this action.

An affidavit in support accompanies.

123.
Petition of course for the like.
[Dan. Pr. 182.]

Formal parts: see Form 39.

The humble petition of the defendant A. B., a person of unsound mind not so found, by C. D., of (*residence and addition*), his next friend for the purpose of this application.

Showeth as follows:

1. The plaintiff has issued a writ of summons in this action against your petitioner: who has appeared thereto.

2. The said C. D. has no (*Continue as in* Form 98, *to* defend this action).

124.
Affidavit in support (*l*).
[Dan. Pr. 182.]

Formal parts: see Form 8.

We, E. F., of (*Place of business*), gentleman, the solicitor in this action for the defendant A. B., and B. E., of (*State place of residence, and add qualification to practise as a medical man; as thus:*

a Fellow of the Royal College of Physicians of London—*Or*,

a Member of the Royal College of Surgeons of London—*Or*,

a Licentiate of the Apothecaries' Company)—(*or as may be*),

severally make oath and say as follows:

And first I the said E. F. for myself say, as follows:

1. The said A. B. has been served with the writ of summons in this action; and has appeared thereto.

2. 3. (*Same as paragraphs* 2, 3 *of* Form 99.)

4. The said A. B. has not been found of unsound mind by inquisition or other proceeding in lunacy [*or as may be*].

5. (*Show means of knowledge.*)

And I the said B. E. for myself say, as follows:

6. I have been in actual practice as a physician [*or as may be*] for —— years last past; and I have for —— years last past professionally attended the above named A. B. [*or as may be*].

7. I personally examined the said A. B. on the —— day of ——, 188—, at (*State where*), and on several previous occasions [*or as may be*], for the purpose of ascertaining his state of mind.

8. From such my examination of the said A. B., I am decidedly of opinion that he is of unsound mind, and wholly incapable of the management of himself or his affairs, or of the care of his property [*or as may be*]; and I have formed such opinion from (*State the grounds*).

(*l*) The affidavit that the proposed guardian has no adverse interest must be made by the solicitor.

125.

Petition of course by lunatic defendant for guardian *ad litem* to be assigned him in lieu of one deceased.
[Dan. Pr. 183.]

Formal parts: see Form 39.

The humble petition of the defendant A. B., a person of unsound mind so found, by C. D., of (*residence and addition*), his next friend.

Showeth as follows:

1. The plaintiff issued a writ of summons in this action against your petitioner, who appeared thereto, and by an order dated the —— day of ——, 188—, G. H. was assigned his guardian *ad litem*: E. F., the committee of the estate of your petitioner, having an interest in the matters in question in this action adverse to the interest of your petitioner therein.

2. The said G. H. died on the —— day of ——, 188—.

3. The said E. F. is still the committee of the estate of your petitioner, and is still interested in the matters in question in this action [*or*, cause] adversely to the interest of your petitioner therein.

4. The said C. D. has no interest (*Continue as in* Form 98 *to the end*).

126.

Affidavit in support.
[Dan. Pr. 183.]

Formal parts: see Form 6.

1. G. H., who by an order dated the —— day of ——, 188—, was assigned the guardian *ad litem* of the defendant A. B. in this action, died on the —— day of ——, 188—, and no person has since been assigned such guardian.

2. The defendant E. F. is still the committee of the estate of the said A. B., and is still interested in the matters in question in this action adversely to the said A. B.

3. I know and am well acquainted with (*Continue as in* Form 99 *to the end*).

127.

Motion paper for a guardian to be assigned a person of unsound mind not so found, as respondent to a petition or other proceeding.
[Dan. Pr. 182.]

Formal parts: see Form 36.

To move on behalf of A. B., a person of unsound mind not so found, by C. D. of (*residence and addition*), his next friend: who has been served with the petition presented by—*Or*, notice of motion served on behalf of—*Or*, summons taken out by—E. F. in this action [*or*, matter—*or as may be*], that the said C. D. may be assigned the guardian of the said A. B., by whom he may appear upon the said petition.

An affidavit in support accompanies.

128.

Petition of course for the like.
[Dan. Pr. 182.]

Formal parts: see Form 39.

The humble petition of A. B., a person of unsound mind not so found, by C. D., of (*residence and addition*), his next friend.

Showeth as follows:

1. Your petitioner has been served with a copy of the petition pre-

sented by E. F. in this action [*or*, cause ; *or*, matter—*or as may be*] to the High Court of Justice on the —— day of ——, 188—.

Or, with a notice of motion on behalf of E. F. in this action [*or*, matter].

Or, with a summons taken out by E. F. in this action [*or*, matter].

2. The said C. D. has no interest in the matter in the said petition referred to [*or*, in this action *or*, matter—*or as may be*] adverse to that of your petitioner ; and is a proper person to be assigned his guardian.

Your petitioner therefore humbly prays, that the said C. D. may be assigned the guardian of your petitioner, by whom he may appear on the said petition [*or*, motion—*or*, summons—*or as may be*].

129.

Affidavit in support of motion or petition. [Dan. Pr. 182.]

Formal parts : see Form 8.

We, E. F., of (*Place of business*), gentleman, the solicitor in this action [*or*, matter] for A. B. hereinafter named, and B. E., of (*residence and description of a medical man : see* Form 124), severally make oath and say :

And first I the said E. F. for myself say, as follows :

1. The said A. B. has been served with a copy of the petition presented on the —— instant [*or*, last], by E. F. in this action [*or*, matter], to the High Court of Justice.

Or, with a notice of motion on behalf of E. F. in this action [*or*, matter].

Or, with a summons taken out by E. F. in this action [*or*, matter].

2. 3. (*Same as paragraphs* 3 *and* 4 *of* Form 99.)

4. 5. 6. 7. 8. (*Same as paragraphs* 4, 5, 6, 7, 8 *of* Form 124.)

130.

Notice of motion or summons by plaintiff, that a guardian may be assigned a defendant of unsound mind (*m*). [Dan. Pr. 183, 184.]

Formal parts : see Form 38 *or* 43.

on the part of the plaintiff, that Mr. Henry Leigh Pemberton, the Official Solicitor of the Supreme Court, or some other proper person (*n*), may be assigned the guardian of the defendant A. B., a person of unsound mind not so found by inquisition, by whom he may appear and defend this action.

131.

Affidavit in support. [Dan. Pr. 183.]

Formal parts : see Form 8.

We, E. F., of (*Place of business*), gentleman, the solicitor in this action for the plaintiff [*or as may be*], and G. H., of (*State place of*

(*m*) R. S. C. Ord. XIII. 1. See note (*a*) to Form 94. For form of order, see 2 Seton, 706, Form 6.

(*n*) It is usual, unless there is some friend of the defendant who is a fit and proper person, and will undertake the defence, for the solicitor of the Supreme Court to be appointed : Dan. Pr. 183, and note (*a*). As to the costs of such solicitor, where he is appointed, see R. S. C. Ord. LXV. 13.

residence, and add qualification to practise as a medical man ; as in Form 124), severally make oath and say as follows :

And first I, the said E. F., for myself say, as follows :

1. (*Prove service of the writ of summons on the defendant* A. B. (*o*).)

2. The said defendant A. B. has not been found of unsound mind by inquisition or other proceeding in lunacy.

3. (*Prove service of the notice of motion on the person with whom or under whose care the defendant was at the time of serving the writ of summons* (*p*) : *see paragraph* 3 *of* Form 95.)

4. (*Show means of knowledge.*)

And I, the said G. H., for myself say as follows :

5. 6. 7. (*Same as paragraphs* 6, 7, 8 *of* Form 124.)

132.

Notice of motion by plaintiff or defendant, to discharge order assigning guardian (*q*). [Dan. Pr. 184.]

Formal parts : see Form 38.

on the part of the plaintiff [*or*, defendant A. B.] that the order dated the —— of ——, 188—, whereby it was ordered that (*Recite so much of it as assigns a guardian*), may be discharged.

Section VII.—Married Women (*a*).

(*Dan. Pr.*, pp. 119—153, 185—193, cccxl.—cccxlii.)

(*a*) *Married Women.*—I. *Summary of Material Provisions of R. S. C.* 1883.

	Order.
A. *Plaintiffs.*—Married women must sue as provided by the Married Women's Property Act, 1882	XVI. 16.
Claims by husband and wife may be joined with claims by either separately	XVIII. 4.
Leave may be given to a husband to issue execution, where he is entitled to execution upon a judgment or order for his wife	XLII. 23(*b*).
B. *Defendants.*—Must be sued as provided by the Married Women's Property Act, 1882	XVI. 16.
Claims against husband and wife may be joined with claims against either separately	XVIII. 4.
Where husband and wife are joined as defendants, both must be served	IX. 3.
Leave may be given to issue execution against a husband where he is liable upon a judgment or order against his wife	XLII. 23(*b*).
C. *In General.*	
Leave required to set down a special case to which a	

(*o*) For form of affidavit of service of the writ, see Form 414.

(*p*) As to the time for, and mode of, service of the notice of motion, see R. S. C. Ord. XIII. 1 ; and note (*u*) to Form 94.

(*q*) If the application is made by defendant on his recovery it must be supported by medical evidence proving such recovery : Dan. Pr. 184.

married woman is a party (not being such in respect of her separate property, or of any separate right of action by or against her) . . . . . XXXIV. 4, 5. ORDER.

II. *Summary of Provisions of Married Women's Property Act*, 1882 (45 & 46 Vict. c. 75).

A. *Rights and Privileges of Married Women.*

A married woman is capable of acquiring, holding, and disposing of real and personal property as her separate property, as if she were a *feme sole* (s. 1 (1)); she can contract, and sue and be sued, either in contract or tort, as if she were a *feme sole* (s. 1 (2)); her contracts will bind her separate property, as well present as future (s. 1 (3), (4)); property belonging at the time of the marriage, or afterwards acquired by or devolving upon, a woman married after 1st Jan., 1883, is to be held by her as her separate property (s. 2); and property acquired after the same date by a woman married before the Act is to be so held (s. 5); a married woman can deal with stock, &c., standing in her name, either solely or jointly with others (ss. 6—9); she can effect a policy on her own life, or that of her husband, for her separate use, or create a trust of the policy monies in favour of her husband and children (s. 11); she has the same remedies as a *feme sole* for the protection and security of her separate property (s. 12); and a married woman executrix, administratrix, or trustee, either alone or jointly with any person or persons, may sue and be sued, and may transfer stocks, &c., without her husband, as if she were a *feme sole* (s. 18).

B. *Liabilities of Married Women.*

A married woman is liable to the extent of her separate property for her antenuptial engagements (s. 13); though, in respect of such engagements, the husband is to some extent liable: the extent of liability depending upon (*a*) the amount of property to which he becomes entitled from or through his wife, and (*b*) the date of the marriage (s. 14); and in respect of such antenuptial liabilities a husband and wife may be jointly sued (s. 15). A married woman may be liable to criminal proceedings by her husband for any criminal act done by her with respect to his property, in like manner as he would be liable with respect to her property (s. 16); settlements made by married women can, under certain circumstances, be impeached by creditors (s. 19); and a married woman may be made liable to the extent of her separate property for the maintenance of a pauper husband (s. 24); and is also liable for the maintenance of her children and grandchildren to the same extent that her husband is by law liable (s. 21).

C. *Questions between husband and wife as to property.*

Questions between husband and wife as to the title to, or possession of, property may be decided by the Court in a summary way (s. 17; and see also s. 10).

Form of writ.—Where a married woman sues or is sued under the Married Women's Property Acts, it must appear on the face of the writ that she is sued or is suing in respect of her separate estate: Rule of Practice Masters, 5 Nov. 1884.

As to actions by married women in respect of torts committed before the Act, see *James* v. *Barraud*, 31 W. R. 786; *Severance* v. *Civil Service Association*, 48 L. T. 485; *Weldon* v. *Winslow*, 13 Q. B. D. 784; *Weldon* v. *Riviere*, 35 L. J. Q. B. 448.

Judgment under R. S. C. Ord. XIV.—See *Bursill* v. *Tanner*, 13 Q. B. D. 691: 32 W. R. 827; *Perks* v. *Mybrea*, W. N. (1884), 64, (explaining *Moore* v. *Mulligan*, W. N. (1884), 34). See also note (*d*), at p. 180.

Execution.—This must be limited to such separate estate as the married woman is not restrained from anticipating, unless such restraint exists under a settlement of her own property made by herself: *Bursill* v. *Tanner*, 13 Q. B. D. 691: 32 W. R. 827.

Judgment against a married woman third party.—In such case judgment may be ordered against a married woman, as a *feme sole*, declaring her separate estate liable, although the liability was incurred prior to the

passing of the Act: *Gloucestershire Banking Co.* v. *Phillipps*, 12 Q. B. D. 533: 32 W. R. 522.

Property acquired in possession after the Act.—Property to which a woman married before the commencement of the Act, was entitled in reversion at such commencement, but which has since become a title in possession, is within s. 5, and may be paid to her on her separate receipt: *Baynton* v. *Collins*, 27 Ch. D. 604: 33 W. R. 41.

III. *Other recent Statutory Enactments affecting Married Women.*

By the Conveyancing Act, 1881 (44 & 45 Vict. c. 41), s. 39, notwithstanding that a married woman is restrained from anticipation, the Court may, if it thinks fit, where it appears to be for her benefit, by judgment or order with her consent, bind her interest in any property.

By the Settled Land Act, 1882 (45 & 46 Vict. c. 38), s. 61, a married woman, either solely, or jointly with her husband, as the case may be, has the powers of a tenant for life under the Act.

As to the Married Women's Property Act, 1882, see White & Blackburn; Wolstenholme & Turner; Dan. Pr. 2334—2344; Wilson, 226; Morgan, 192—200; Ann. Pr. 190, 191; and Chap. XXXVIII., s. 44.

As to the Conveyancing Act, see Wolstenholme & Turner; and Chap. XXXVIII., s. 42.

As to the Settled Land Act, see Wolstenholme & Turner; and Chap. XXXVIII., s. 43.

133.

Summons that service of writ of summons on husband or wife may be dispensed with (*b*). [Dan. Pr. 186, cccxlii.]

Formal parts: see Form 43.

on the part of the plaintiff, that he may be at liberty to serve the writ of summons in this action on the defendant A. B., the wife of the defendant C. B., without serving the same on him [*or*, on the defendant C. B. without serving the same on the defendant A. B. his wife]; and that such service may be deemed good service on the said C. B. [*or*, the said A. B.]

(*b*) See R. S. C. Ord. IX. 3; and note (*a*), *supra*.

CHAPTER IV.

PARTIES TO AN ACTION (*a*).

(*Dan. Pr.*, pp. 194—312, cccxlii—cccxlix.)

(*a*) *Parties to an Action.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
A. *Plaintiffs.*—Persons claiming jointly, severally, or in the alternative, may be plaintiffs	XVI. 1.
If action commenced in name of wrong plaintiff, a new plaintiff may be added or substituted	,, 2.
In case of misjoinder of co-plaintiff, a defendant may establish a set-off or counterclaim against the other parties	,, 3.
Trustees, executors, and administrators may sue as representing the property or estate, and the beneficiaries therein	,, 8.
Where there are numerous persons in the same interest, one or more may sue on behalf of all	,, 9.
One residuary legatee or next of kin may obtain judgment for administration without serving the others of the class	,, 33.
Or, one person interested in proceeds of realty	,, 34.
Or, one residuary devisee or heir	,, 35.
Or, one of several *cestuis que trust*	,, 36.
In actions of waste, &c., one person may sue on behalf of himself and all persons having the same interest	,, 37.
An executor, administrator, or trustee may have judgment against any one legatee, next of kin, or *cestui que trust* for administration, or execution of trusts	,, 38.
B. *Defendants.*—All persons may be joined as defendants against whom relief is alleged, either jointly, severally, or in the alternative	,, 4.
Defendant need not be interested in *all* the relief sought	,, 5.
Joinder of defendants severally, or jointly and severally, liable	,, 6.
Joinder in cases where plaintiff is in doubt from whom redress is to be sought	,, 7.
Trustees, executors, and administrators may be sued as representing the property or estate, and the beneficiaries therein	,, 8.
Of numerous persons in the same interest, one or more may be sued or authorized to defend on behalf of all	,, 9.
C. *Generally.*	
Adding, striking out, or substituting parties.—No cause to be defeated by misjoinder or nonjoinder of parties. Parties may be struck out or added either as plaintiffs or defendants; but no plaintiff to be added without his written consent	,, 11.
Mode of application—before trial by motion or summons; or at the trial in a summary manner	,, 12.

	Order.
Proceedings where defendants are added or substituted—they must be served with amended writ	XVI. 13.
D. *Appointment of Representatives.*—The Court may appoint class representatives in certain cases	,, 32.
Where no legal personal representative, the Court may appoint, or dispense with, one	,, 46.
E. *Miscellaneous Provisions.*—As to conduct of action . . .	,, 39.
As to service of notice of judgment	,, 40-44.
Heir-at-law not necessary party to suit to execute the trusts of a will	,, 45.

As to parties to an action under The Partition Act, see Dan. Pr. 198, 1335; 31 & 32 Vict. c. 40, s. 9; 39 & 40 Vict. c. 17, s. 3; 2 Seton, 1016—1018; Morgan, 182, 183.

Section I.—Generally.

(*Dan. Pr.*, pp. 194—259, cccxlii—cccxliii.)

134.

Motion paper for appointment of representative (*b*). [Dan. Pr. 210.]

Formal parts: see Form 36.

To move on behalf of the plaintiff [*or as may be*], that the defendant A. B.

Or, A. B., of (*residence and addition*),

may be appointed to represent the estate of C. D.,

Or, the respective estates of C. D. and E. F.,

deceased, in the plaintiff's statement of claim named [*or as may be*], for all the purposes of this action.

135.

Summons for the like. [Dan. Pr. 210.]

Formal parts: see Form 43.

on the part of the plaintiff (*Continue, as in* Form 134, *to the end*).

136.

Motion paper to dispense with a representative (*c*). [Dan. Pr. 210.]

Formal parts: see Form 36.

To move on behalf of the plaintiff [*or as may be*], that this action, and the proceedings therein, may be carried on and prosecuted, notwithstanding the absence of any person representing the estate of A. B.,

Or, the respective estates of A. B. and C. D.,

deceased, in the plaintiff's statement of claim named [*or as may be*].

(*b*) R. S. C. Ord. XVI. 46. This rule is taken from 15 & 16 Vict. c. 86, s. 44; repealed by 46 & 47 Vict. c. 49. As to the proper person to be appointed representative, see Dan. Pr. 210; Morgan, 347. For forms of order, see 2 Seton, 1531, No. 2, 1532, Nos. 3, 4. The application is usually made *ex parte*, unless the order is obtained at the hearing: see Dan. Pr. 210, note (*n*); 2 Seton, 1534.

(*c*) See *Curtius* v. *Caledonian Insurance Co.*, 19 Ch. D. 534: 30 W. R. 125. For form of order, see 2 Seton, 1531, No. 1. The application is usually made *ex parte*: see Form 134, and note (*b*).

137.
Summons for the like. [Dan. Pr. 210.]

Formal parts : see Form 43.
on the part of the plaintiff (*Proceed as in* Form 136, *to the end*).

138.
Motion paper for appointment of representative of heir at law, next of kin, or a class (*d*). [Dan. Pr. 196.]

Formal parts : see Form 36.
To move on behalf of the plaintiff [*or as may be*], that A. B. of (*residence and addition*), may be appointed to represent the heir-at-law [*or*, the next of kin—*or*, the children] of C. D., in the plaintiff's statement of claim named [*or as may be*], for the purpose of obtaining the judgment of the Court upon the construction of the will of the said C. D. [*or as may be*].

139.
Notice of motion or summons for the like. [Dan. Pr. 196.]

Formal parts : see Form 38 *or* 43.
on the part of the plaintiff [*or as may be*], that A. B. (*Continue as in* Form 138, *to the end*).

SECTION II.—ADDING, STRIKING OUT, AND SUBSTITUTING PARTIES (*a*).

(*Dan. Pr.*, pp. 259—269, cccxliii.—cccxliv.)

(*a*) *Adding Parties, &c.—Summary of Material Provisions of R.S.C.* 1883.

	ORDER.
Wrong plaintiff.—Where action commenced in name of a wrong or doubtful plaintiff, the Court or a Judge, if satisfied of a *bonâ fide* mistake, may order another person to be substituted as plaintiff	XVI. 2.
Adding beneficiaries as parties.—Where trustee, &c., sues or is sued on behalf of the property or estate or the beneficiaries therein, the Court or a Judge may order any of the beneficiaries to be made parties either in addition to or in lieu of any of the previously existing parties	,, 8.
Amendment as to parties.—Names of any persons improperly joined, whether as plaintiffs or as defendants, may be struck out, and names of any parties, whether plaintiffs or defendants, who ought to have been joined, may be added ; but no person can be added as a plaintiff without his written consent . . .	,, 11.
Mode of application.—An application to add, strike out, or substitute a plaintiff or defendant may be made at any time before trial, by motion or summons, or at the trial . . .	,, 12.
Amendment of writ, &c.—Where a defendant is added or substituted, the plaintiff must file an amended copy of, and sue out, a writ of summons, and serve same upon the new defendant .	,, 13.
Power of Court.—The Court or a Judge may require any person not already a party to be made a party to any action or proceeding	,, 39.

(*d*) See R. S. C. Ord. XVI. 32 ; note (*a*), at p. 64 ; see also *Re Peppitt's Estate, Chester* v. *Phillips*, 4 Ch. D. 230 ; *Beale* v. *Ruston*, W. N. (1878), 179 ; *Miles* v. *Jarvis*, W. N. (1883), 203, where it was held that there was no power in a Partition action to appoint a person to represent the possible interest of unborn children under legal limitations. For a comprehensive form of order, see 2 Seton, 1532, No. 5.

140.

Notice of motion or summons to add, strike out, or substitute a party (*b*). [Dan. Pr. 260—267.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that (*here specify the alteration in the parties to the action which it is desired to have made; as thus:*

that the name of A. B. may be added as a plaintiff in this action; *or*,

that the name of the above-named A. B. as a plaintiff in this action may be struck out; *or*,

that the name of the above-named A. B. as a plaintiff in this action may be struck out, and the name of C. D. may be substituted therefor; *or*,

that the name of E. F. may be added as a defendant to this action; *or*,

that the name of the above-named E. F. as a defendant to this action may be struck out; *or*,

that the name of the above-named A. B. may be struck out as a plaintiff in this action, and be inserted as a defendant thereto);

Where a defendant is added, say, when necessary: and that the plaintiff may be at liberty accordingly to amend his statement of claim, as he may be advised;

Where a defendant is not added, say: and that the writ of summons and subsequent proceedings in this action may be amended accordingly;

If the applicant has given notice of motion for an injunction, or for a receiver, which is still pending, add: without prejudice to the notice of motion for an injunction [*or*, for a receiver] in this action;

If the applicant has obtained an injunction, add: without prejudice to the injunction awarded in this action;

Conclude: And that the costs of this application may be costs in the action.

(*b*) See R. S. C. Ord. XVI. 2, 11, 12, 13; and note (*a*), *supra*. The application should in general be by summons: see *Wilson* v. *Church*, 9 Ch. D. 552; Dan. Pr. 263. The application under r. 2 can only be made by a plaintiff; and the order will be granted only where there has been a *bonâ fide* mistake: *Clowes* v. *Hilliard*, 4 Ch. D. 413. The application should be supported by an affidavit showing the mistake under which the writ was issued. The consent in writing of the new plaintiff must be produced: R. S. C. Ord. XVI. 11. The application under rr. 11—13 may be made either by the plaintiff or the defendant; and at any stage of the proceedings before judgment. But after final judgment it is irregular to add a new defendant: see Dan. Pr. 268; *Re Mason, Turner* v. *Mason*, W. N. (1883), 147; *Heard* v. *Borgwardt*, W. N. (1883), 173; see, however, *Keith* v. *Butcher*, 25 Ch. D. 750: 32 W. R. 378, where leave given to amend by adding defendants in a foreclosure action after order for foreclosure had been made, though not drawn up. A plaintiff cannot obtain an order to add a defendant to a counterclaim: *Eyre* v. *Moreing*, W. N. (1884), 58. Parties will not be added as defendants on application of a defendant, where their claims do not conflict with those of the plaintiffs: *Sanders* v. *Peck*, 32 W. R. 462.

141.
Notice of motion or summons by a plaintiff to make a defendant of his co-plaintiff refusing to proceed. [Dan. Pr. 263, and note (*c*).]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff A. B., that the name of the above-named C. D. may be struck out as a plaintiff in this action, and may be inserted as a defendant thereto; and that the writ of summons and all subsequent proceedings in this action may be amended accordingly; and that the said C. D. may be ordered to pay to the plaintiff A. B. the costs occasioned by such amendment, [and also the costs of giving any security for costs to which the defendants, or any of them, may be held entitled in consequence of such amendment and incidental thereto], and also the costs of and incident to this application: such costs to be taxed as between solicitor and client.

142.
Consent to be added as plaintiff, or next friend (*c*) [Dan. Pr. 262.]

(*Title and reference to the record.*)

I, C. D., of (*address and description*), consent to be added as sole plaintiff [*or*, as a co-plaintiff with E. F.—*or*, as next friend of the plaintiff A. B., an infant], in this action.

Dated ——, 188—.

C. D.

143.
Motion paper to strike out name of co-plaintiff (*d*). [Dan. Pr. 263.]

Formal parts: see Form 36.

To move on behalf of the above-named plaintiff A. B., that the name of the above-named C. D. as a plaintiff in this action may be struck out.

144.
Petition of course for the like (*d*). [Dan. Pr. 263.]

Formal parts: see Form 39.

The humble petition of the above-named plaintiff A. B.

Showeth as follows:

1. Your petitioner issued his writ in this action on the —— day of ——, 188—; and in such action the name of C. D. was joined as a plaintiff.

2. The defendant has not [*or*, none of the defendants have] appeared to the said writ.

Your petitioner humbly prays, that the name of the above-named C. D., as a plaintiff in this action, may be struck out, and that the writ of summons may be amended accordingly.

(*c*) See R. S. C. Ord. XVI. 11; and note (*a*), *supra*; *Cox* v. *James*, 19 Ch. D. 55, is now obsolete.

(*d*) An order of course may be obtained before appearance; or after appearance with consent of defendants.

145.
Summons by defendant improperly joined to have his name struck out (*e*). [Dan. Pr. 266.]

Formal parts: see Form 43.

on behalf of the above-named E. F., that the writ of summons in this action and the copy thereof filed at the Central Office [*or*, with the Registrar of the District Registry at ——] and all subsequent proceedings in this action may be amended by striking out his name as a defendant; and that the above-named plaintiff may be ordered to pay to the said E. F. his costs incurred in this action, including the costs of and relating to this application.

146.
Notice of motion or summons by defendant that necessary parties may be added (*f*). [Dan. Pr. 266.]

Formal parts: see Form 38 *or* 43.

on behalf of the above-named defendant C. D., that E. F., of, *&c.*, and G. H., of, *&c.*, may be added as defendants in this action; and that the plaintiff may be ordered to amend the writ of summons herein and the copy thereof filed at the Central Office [*or*, with the Registrar of the District Registry at ——] and all subsequent proceedings by adding the said E. F. and G. H. as defendants.

Section III.—Parties by Service of Notice of Claim for Relief (*a*).

(*Dan Pr.*, pp. 269—274, cccxliv.—cccxlvi.)

(*a*) *Third Party Procedure.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Third party notice.—Where defendant claims contribution or indemnity over against a person not a party to the action, he may, by leave of the Court, issue a third party notice . .	XVI. 48.
Appearance by third party.—Third party desiring to dispute the plaintiff's claim, or his own liability to the defendant, must appear within *eight days* after service; or subsequently by special leave. In default, he will be deemed to admit the validity of the judgment obtained against the defendant, and his own liability to contribute or indemnify	,, 49.
Default of appearance by third party.—Where third party makes default in appearing, the defendant, if he suffer judgment by default, will be entitled, after satisfaction of the judgment, or, with leave of Court, before such satisfaction, to enter judgment against third party to the extent of the contribution or indemnity claimed	,, 50.
Where third party makes default in appearing, if the action is tried and results in favour of the plaintiff, the Judge may at or after the trial enter judgment for defendant against the third party, but execution is not to be issued until satisfaction	

(*e*) See *Wilson* v. *Church*, 9 Ch. D. 552.

(*f*) See *Werdermann* v. *Société Générale d'Electricité*, 19 Ch. D. 246: 30 W. R. 33. For cases in which, in actions by bondholders, a dissentient bondholder has been added as defendant on his own application, see Dan. Pr. 268; *Wilson* v. *Church*, 9 Ch. D. 552; *Fraser* v. *Cooper, Hall & Co.*, 21 Ch. D. 718; 30 W. R. 654.

	ORDER.
by defendant of the verdict against him. If action is decided in plaintiff's favour, otherwise than by trial, the Court may, on motion or summons, order judgment to be entered for defendant against the third party after satisfaction by defendant of the amount recovered by plaintiff	XVI. 51.
Application for directions.—If third party appears, directions will be given on application of defendant	,, 52, 53.
Costs.—Costs as between a third party and the other parties to an action are in the discretion of the Court	,, 54.
Claims against co-defendant.—Where a defendant claims contribution or indemnity against any other defendant, the same procedure to be adopted as between defendant and third party .	,, 55.

147.

Notice of motion or summons for leave to issue and serve a third party notice (*b*). [Dan. Pr. 272.]

Formal parts: see Form 38 *or* 43.

on behalf of the defendant A. B. for leave to issue a notice in this action under the Rules of the Supreme Court, Order XVI., rule 48, and to serve the same, together with a copy of the statement of claim (*If there is no statement of claim, say:* of the writ of summons) in this action, on C. D.

If C. D. *is out of the jurisdiction, add:* at ——, in the (kingdom) of ——, out of the jurisdiction of the Court (*c*).

148.

Affidavit in support. [Dan. Pr. 272.]

Formal parts: see Form 6.

1. The plaintiff's claim in this action is for (*State nature of plaintiff's claim, as thus:* damages for the breach of a contract for the sale and delivery to the plaintiff of 1,000 tons of coal).

2. *Show the nature of the defendant's claim over against the third party; as thus:* I claim to be indemnified by X. Y., of (*residence and addition*), against all liability in respect of the said contract, or of any breach thereof, on the ground that the said contract was made by me on behalf of, and as agent for, the said X. Y.

(*b*) See R. S. C. Ord. XVI. 48; and note (*a*), *supra*. This rule is not so comprehensive as the old rule (R. S. C., 1875, Ord. XVI. 18), under which the application could be made in all cases where a defendant claimed to be entitled to contribution or indemnity, *or other remedy or relief*, over against the third party. The new rule omits the words in italics. As to the meaning of the rule, see *Speller* v. *Bristol Steam Navigation Co.*, 13 Q. B. D. 96: 32 W. R. 670. For form of order, see R. S. C. App. K., No. 23. For cases in which the leave has been granted or refused, see Dan. Pr. 270—272; Wilson, 234—236; Ann. Pr. 213—215. The plaintiff should be served with notice of the application: *Corrie* v. *Allen*, W. N. (1883), 35; *Finlay & Co.* v. *Scott & Co.*, W. N. (1884), 8. Leave will not be granted if the plaintiff's action will be embarrassed: *Bower* v. *Hartley*, 1 Q. B. D. 652; "*The Bianca*," 8 P. D. 91: 31 W. R. 954; *Hutchison* v. *Colorado United Mining Co.*, W. N. (1884), 40. A married woman having no separate estate cannot be brought in as a third party: *Jones* v. *Elderton*, W. N. (1884), 39.

(*c*) See *Swansea Shipping Co.* v. *Duncan*, 1 Q. B. D. 644; Dan. Pr. 273. Leave refused where third party out of the jurisdiction, and plaintiff's action would have been tied up for three months: *Hutchison* v. *Colorado United Mining Co.*, W. N. (1884), 40; and see *Speller* v. *Bristol Steam Navigation Co.*, 13 Q. B. D. 96; 32 W. R. 670.

3. I am advised and verily believe that I have a just and true cause of action against the said X. Y. in respect of the matters aforesaid.

If the third party is resident out of the jurisdiction, conclude:

4. The said X. Y. is resident at ——, in the (kingdom) of ——, out of the jurisdiction of this honourable Court.

149.

Third party notice (*d*). [Dan. Pr. 272.]

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant.

To Mr. X. Y.,

Take notice that this action has been brought by the plaintiff against the defendant C. D. (*State the nature and grounds of the claim; as thus:*

as surety for M. N., upon a bond conditioned for payment of £2,000 and interest to the plaintiff.

The defendant claims to be entitled to contribution from you to the extent of one-half of any sum which the plaintiff may recover against him, on the ground that you are his co-surety under the said bond [*or*, on the ground that you also are surety for the said M. N., in respect of the said matter, under another bond made by you in favour of the said plaintiff, dated the —— day of ——, A.D. ——]. *Or,*

as acceptor of a bill of exchange for £500, dated the —— day of ——, A.D. ——, drawn by you upon and accepted by the defendant, and payable three months after date.

The defendant claims to be indemnified by you against liability under the said bill, on the ground that it was accepted for your accommodation. *Or,*

to recover damages for a breach of a contract for the sale and delivery to the plaintiff of 1,000 tons of coal.

The defendant claims to be indemnified by you against liability in respect of the said contract, or any breach thereof, on the ground that it was made by him on your behalf and as your agent).

And take notice that, if you wish to dispute the plaintiff's claim in this action as against the defendant, C. D., or your liability to the defendant, C. D., you must cause an appearance to be entered for you within eight (*dd*) days after service of this notice.

(*d*) See R. S. C. Ord. XVI. 48, note (*a*), *supra*; and App. B., No. 1. On issuing the notice a fee of 2*s*. 6*d*. is payable: by a stamp impressed upon or adhesive to the notice: Ord. as to S. C. Fees, 1884, Sched. No. 3; Ord. as to fees, &c., July, 1884, p. 4.

(*dd*) Where the person served is resident out of the jurisdiction, the order giving leave to effect service will limit the time for appearance; and in that case the notice must be altered to accord therewith; see also Forms 372, 373, and notes thereto.

In default of your so appearing, you will be deemed to admit the validity of any judgment obtained against the defendant, C. D., and your own liability to contribute or indemnify to the extent herein claimed, which may be summarily enforced against you pursuant to the Rules of the Supreme Court, 1883, Order XVI. Part VI.

Dated this —— day of ——, 188—.

(*Name and address of solicitor or party giving the notice; see* Form 37.)

NOTE.—Appearance to be entered at the

If the action is proceeding in London, say:

Central Office, Royal Courts of Justice, London.

If the action is proceeding in a District Registry, say:

District Registry at ——, in the county of ——.

150.

Memorandum of entry of appearance to notice (*e*). [Dan. Pr. 273.]

(*Title and reference to the record.*)

Enter an appearance for X. Y. to the notice issued in this action on the —— day of ——, 188—, by the defendant ——, under the Rules of the Supreme Court, Order XVI., rule 49.

Dated the —— day of ——, 188—.

G. H., of —— (*f*),

Agent for M. N., of ——,

Solicitor for the said X. Y.

151.

Notice of motion, or summons, for leave to appear, notwithstanding time has elapsed (*g*). [Dan. Pr. 273.]

Formal parts: see Form 38 *or* 43.

on the part of X. Y., who has been served with a notice issued in this action on the —— day of ——, 188—, by the defendant, under the Rules of the Supreme Court, 1883, Order XVI., rule 48, that he may be at liberty to enter an appearance to the said notice, notwithstanding the time limited for so doing has expired.

152.

Notice of appearance.

Formal parts: see Form 37.

Take notice that I have this day entered an appearance on behalf of X. Y., to the third party notice issued in this action on the —— day of ——, 188—, by the defendant C. D.

(*e*) See R. S. C. Ord. XVI. 49; and note (*a*), *supra*. This form is given in R. S. C. App. A., Part II., No. 5. On entering an appearance a fee of 2*s.* is payable for each person: by a stamp impressed on the memorandum, and where the appearance of more than one person is entered by the same memorandum, the fees for all persons beyond the first are denoted by means of impressed stamps: Ord. as to S. C. Fees, 1884, Sched., No. 17; Ord. as to Fees, &c., July 1884, p. 5.

(*f*) If this address be beyond three miles from the Royal Courts of Justice, an address for service within three miles thereof must be given.

(*g*) See R. S. C. Ord. XVI. 49; and note (*a*), *supra*.

153.

Notice of motion, or summons, to set aside notice (*h*). [Dan. Pr. 273.]

Formal parts: see Form 38 *or* 43.
on the part of the plaintiff, *Or*,
on the part of X. Y., who has been served with the notice hereinafter mentioned,
that the order made in this action dated the —— day of ——, 188—, whereby it was ordered that the defendant C. D. should be at liberty to issue a notice in this action under the Rules of the Supreme Court, Order XVI., rule 48, and to serve the same upon (the said) X. Y., may be discharged; and that the notice issued by the said defendant under the said order, and the service of the said notice on the said X. Y., may be set aside; and that the said defendant may be ordered to pay to the plaintiff his costs of this application, and to pay to the said X. Y. his costs of entering an appearance to the said notice and of this application [*or as may be*].

154.

Notice of motion, or summons, by third party to set aside or vary judgment (*i*).

Formal parts: see Form 38 *or* 43.
on the part of X. Y. (*third party*), that the judgment entered against him by the defendant C. D. may be set aside [*or*, varied] on the ground (*State grounds of application*).

155.

Notice of motion, or summons, for judgment after the decision of the action otherwise than by trial (*j*). [Dan. Pr. 273, cccxlv.]

Formal parts: see Form 38 *or* 43.
on the part of the defendant C. D., that, no appearance having been entered by X. Y. (*third party*), to the notice claiming contribution [*or*, indemnity] served upon him by the said C. D., pursuant to order dated the —— day of ——, 188—, and the applicant having fully satisfied the amount adjudged to be due from him to the plaintiff by the order made in this action dated the —— day of ——, 188— [*or as the case may be*], the applicant may be at liberty to sign judgment against the said X. Y., for £—— (*the amount paid by the defendant to the plaintiff*,

(*h*) Formerly it was necessary for the third party to enter a conditional appearance before applying to set aside the notice. But no conditional appearance is now necessary: see R. S. C. Ord. XII. 30. For cases in which the order giving leave to serve the notice has been discharged, see *Bower* v. *Hartley*, 1 Q. B. D. 652; *Horwell* v. *London General Omnibus Co.*, 2 Exch. D. 365; *Corrie* v. *Allen*, W. N. (1883), 35, 65; "*The Bianca*," 8 P. D. 91; *Borough and another* v. *James*, W. N. (1884), 32. For form of order, see R. S. C. App. K., No. 14.

(*i*) See R. S. C. Ord. XVI. 50; and note (*a*), *supra*. For form of judgment against third party, where he makes default in appearance, and after satisfaction by the defendant of a default judgment against himself, see Chitty's Forms, 12 Ed., 235. If it is desired to enter judgment against the third party before satisfaction of the judgment suffered by the defendant, leave must be obtained: R. S. C. Ord. XVI. 50.

(*j*) See R. S. C. Ord. XVI. 51; and note (*a*), *supra*. For form of judgment against third party, after trial, see Chitty's Forms, 236.

or so much thereof as is covered by the third-party notice), together with the sum of £——, being the taxed costs of the said plaintiff paid by the applicant; and together with the costs of the applicant of his defence to this action, including therein the costs of and incidental to the said notice, and of this application: such costs to be taxed.

156.

Notice of motion, or summons, for directions after appearance of third party (*k*). [Dan. Pr. 273, 274, cccxlv.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant C. D., for directions as to the manner in which the question (*Here state concisely the question by the determination of which in the action it is desired to bind the party served; as:*

whether there has been a breach of the contract for the sale and delivery to the plaintiff of 1,000 tons of coal, mentioned in the indorsement of claim on the writ of summons [*or*, in the statement of claim), and whether X. Y. (*third party*) is liable to indemnify the applicant to any and what extent pursuant to the notice in that behalf served by the said defendant upon the said X. Y. under the Rules of the Supreme Court, Order XVI. rule 48),

shall be determined in this action.

157.

Notice by defendant claiming contribution or indemnity against co-defendant (*l*). [Dan. Pr. 274, cccxlvi.]

(*See* Form 149, *which can be readily adapted to meet the case.*)

(*k*) See R. S. C. Ord. XVI. 52, 53; and note (*a*), *supra*; see *Benecke* v. *Frost*, 1 Q. B. D. 419; *Coles* v. *Civil Service Supply Association*, 32 W. R. 409: 26 Ch. D. 529. For cases where the Court has refused to give directions, see *Schneider* v. *Batt*, 8 Q. B. D. 701: 30 W. R. 420; *Caister* v. *Chapman*, W. N. (1884), 31 (where directions were refused after plaintiff had obtained final judgment against the defendant). But see *The Gloucestershire Banking Co.* v. *Phillips*, 12 Q. B. D. 533: 32 W. R. 522. Before giving directions the Court must be satisfied that there is a question proper to be tried as to the liability of the third party to make contribution or indemnity: *Pontifex* v. *Foord*, 12 Q. B. D. 152: 32 W. R. 316. Where the Court refuses to give directions, the third party should be dismissed: *Schneider* v. *Batt*, 8 Q. B. D. 701: 30 W. R. 420; *Corrie* v. *Allen*, W. N. (1883), 35, 65; "*The Bianca*," 8 P. D. 91. In *Bell & Co.* v. *Von Dadelzen*, W. N. (1883), 208, an application for leave to sign summary judgment under R. S. C. Ord. XVI. 52, in an action for damages for breach of contract, was refused. A third party was allowed to raise against the defendant defences which the latter might have raised, but had not raised, against the plaintiff; but as against the plaintiff the third party was confined to the defences actually raised by the defendant: *Callender* v. *Wallingford*, 32 W. R. 491: as varied by order (21st of May, 1884) of the C. A. (*ex relatione* Mr. Ribton). A third party cannot counter-claim against the plaintiff: *Eden* v. *Weardale Iron and Coal Co.*, W. N. (1884), 232: 33 W. R. 241.

(*l*) See R. S. C. Ord. XVI. 55; and note (*a*), *supra*. See *Sawyer* v. *Sawyer*, W. N. (1883), 181: *Flower* v. *Todd*, W. N. (1884), 47: *Catton* v. *Bennett*, 26 Ch. D. 161; 32 W. R. 485. No leave is required to serve this notice: *Towse* v. *Loveridge*, 25 Ch. D. 76: 32 W. R. 151.

Section IV.—Parties by Service of Notice of the Judgment (*a*).

(*Dan. Pr.*, pp. 275—282, cccxlvi.—cccxlvii.)

(*a*) *Service of Notice of Judgment.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
In what cases—effect of.—Where in actions for administration, execution of trusts, or partition or sale, a judgment or order has been made under R. S. C. Ord. XV. or XXXIII., or affecting the rights or interests of persons not parties to the action, the Court or a Judge may direct that any persons interested in the estate or under the trust, or in the hereditaments, be served with notice of the judgment or order. After such notice the parties served will be bound as if they had originally been parties, and be at liberty to attend the proceedings. Any person so served may apply, within one month after service, to the Court or Judge to discharge, vary, or add to the judgment or order	XVI. 40.
Appearance by party served.—Order for liberty to attend is not necessary—appearance must be entered	,, 41.
Memorandum of service.—Must be entered at the Central Office	,, 42.
Form of notice.—It must be entitled in the action, with a memorandum endorsed in prescribed form	,, 43.
Service on infants, &c.—Notice must be served on an infant or person of unsound mind not so found by inquisition in same manner as a writ of summons	,, 44.
Originating summonses.—In the case of originating summonses to administer a trust, &c., the Court or a Judge may give special directions for service of judgment upon persons not parties	LV. 9.
Copies of certificates, &c.—A copy of every certificate of entry of a memorandum of service of notice of judgment, and of every appearance entered by a person so served, must be left at Chambers	,, 31.
Directions on summons to proceed with judgment.—The Judge, if satisfied that all necessary parties have been served with notice of the judgment, is to give all necessary directions	,, 33.
Dispensing with service—The Judge may dispense with service of notice of the judgment, or order substituted service	,, 35.
No proceedings until service.—Until all necessary parties have been served with notice of the judgment, the proceedings under the order, except to a certain limited extent, are to be suspended	,, 36.

As to serving notice of a judgment or order on a person who would otherwise be a necessary party, see 31 & 32 Vict. c. 40, s. 9.

158.

Notice of a judgment or order (*b*). [Dan. Pr. 278.]

(*Title and reference to the record.*)

Take notice that by a judgment [*or*, order] of this Court, made in this action, and dated the —— day of ——, 188—, it was declared and

(*b*) See R. S. C. Ord. XVI. 40, 43; and note (*a*), *supra*. A full copy of the order properly endorsed may be served instead of notice of the judgment or order.

adjudged [*or*, ordered] as follows, that is to say : (*Set out the declaratory and ordering parts of the judgment or order* (*c*) :

Dated —— day of ——, 188—.

X. Y. of (*Place of business*),

Solicitor for the plaintiff [*or as may be*].

To (*Set out the names and places of residence of the persons to be served with the notice*).

159.

Memorandum to be indorsed on the notice (*d*). [Dan. Pr. 278.]

188—. B. No. —.

In the High Court of Justice.

Chancery Division.

(*Name of Judge.*)

B. *v.* D.

To (*Name of person on whom the notice is to be served*).

Take notice that, from the time of the service of this notice, you [*or as the case may be*, the infant, *or* person of unsound mind] (*e*), will be bound by the proceedings in the above cause, in the same manner as if you [*or*, the said infant—*or*, person of unsound mind] had been originally made a party ; and that you [*or*, the said infant—*or*, person of unsound mind] may, on entering an appearance at the Central Office, attend the proceedings under the within-mentioned judgment [*or*, order] ; and that you [*or*, the said infant—*or*, person of unsound mind] may, within one month after the service of this notice, apply to the Court to add to the judgment [*or*, order].

160.

Summons for special directions as to mode of service (*f*). [Dan. Pr. 277.]

Formal parts : see Form 43.

on the part of the plaintiff [*or as may be*],

1. That service of notice of the judgment [*or*, order], dated the ——, 188—, together with a copy of the order to be made hereon, upon A. B., of, *&c.*, may be deemed good service upon C. D., E. F., and G. H.

2. That publication in the "London Gazette," and in "The Times" newspaper, of notice of the said judgment [*or*, order], and of the memorandum prescribed by the Rules of the Supreme Court, Order XVI., rule 43, in this behalf, addressed to L. M., and of a copy of the order to be made hereon, may be deemed good service of such notice on the said L. M. ; and that the time within which the said L. M. may apply to add to the said judgment [*or*, order], may be —— months after the last publication of such notice.

3. That service of notice of the said judgment [*or*, order] upon S. T.,

(*c*) The simplest course seems to be to set out *verbatim* in the past tense so much of the judgment or order as follows the recital of the evidence.

(*d*) For this form, see R. S. C. Ord. XVI. 43, and App. G., No. 28.

(*e*) As to service of notice of judgment on infants or persons of unsound mind, see R. S. C. Ord. XVI. 44 ; and note (*a*), *supra*.

(*f*) See R. S. C. Ord. LV. 35 ; and note (*a*), *supra*. The application should be made by the party having carriage of the judgment.

by sending such notice, indorsed with the memorandum prescribed as aforesaid, through the post-office, in a pre-paid letter, addressed to him at ——, may be deemed good service of such notice on the said S. T. (*ff*); and that the time within which the said S. T. may apply to add to the said judgment [*or*, order] may be —— months after the service of such notice.

4. That service of notice of the said judgment [*or*, order] on W. Y. may be dispensed with.

161.

Motion paper or summons for leave to serve the notice out of the jurisdiction (*g*). [Dan. Pr. 277.]

Formal parts: see Form 36 *or* 43.

on the part of the plaintiff [*or as may be* (*gg*)], that he may be at liberty to serve notice of the judgment [*or*, order] in this action, dated the ——, 188—, upon A. B., at (*State where; as thus:*) Paris, or elsewhere in France.

Or, in the case of substituted service, say: upon A. B., by serving the same upon (*State whom and where; as thus:*) his mother E. B., at the city of F., in the county of S., in the State of O., in the United States of America, or elsewhere in the said United States.

If the month allowed by R. S. C. Ord. XVI. 40 *is deemed insufficient, add:* and that the time to be specified in the indorsement on such notice, within which the said A. B. may apply to add to the said judgment [*or*, order], may be (six weeks) after such service (*h*).

162.

Affidavit in support. [Dan. Pr. 277.]

Formal parts: see Form 6.

1. A. B., on whom notice of the judgment [*or*, order] in this action, dated the ——, 188—, is required to be served, as being interested in the matters in question in this action (*State shortly how; as thus:* under the trusts of the indenture, dated the ——, 187—, in the pleadings mentioned), is now residing at (*State where; as thus:* Paris, in

(*ff*) For orders for service through the post-office, see *St. John* v. *Harrison*, M. R. at Chambers, 15 Nov. 1866, Reg. Lib. B. 2269; *Lawson* v. *Halford*, M. R. at Chambers, 22 Nov. 1869, Reg. Lib. B. 3117; see also *Burton* v. *Shaw*, 10 L. T. N. S. 292, V. C. W.

(*g*) R. S. C. Ord. LV. 35. For orders in like case, see *Login* v. *Princess of Coorg*, M. R. at Chambers, 19 Mar. 1861, Reg. Lib. B. 1898; *Hasluck* v. *Hasluck*, V. C. W. at Chambers, 9 June, 1863, Reg. Lib. A. 1084; *Gates* v. *Buckland*, V. C. S. at Chambers, 14 Mar. 1865, Reg. Lib. A. 480.

(*gg*) The application should be made by the party having carriage of the judgment.

(*h*) As to the time to be named, see Form 375, note (*l*). The time mentioned in the memorandum endorsed on the notice must accord with the direction in the order.

France), out of the jurisdiction of this honourable Court. He is not an infant, nor of unsound mind [*or as may be*].

2. (*Show means of knowledge.*)

163.

Letter enclosing notice of judgment to a person directed to be served through the post office. [Dan. Pr. 278.]

(*Address and date.*)

To S. T., of ——.

Sir,

In an action of B. *v.* D., now pending in the Chancery Division of the High Court of Justice, for the administration of the estate of W. A., late of, *&c.*, deceased [*or as may be*], Mr. Justice —— has, by an order dated the ——, 188—, directed notice of the judgment [*or*, order] therein, dated the —— of ——, 188—, to be transmitted to you, as being one of the next of kin of the said W. A. [*or as may be*]. I beg, therefore, as the plaintiff's solicitor, to enclose you such notice (marked A.), and also a copy of the said order, dated the ——, 188— (*Order directing service*); and have to call your attention to the memorandum indorsed on the notice.

As I shall have occasion to satisfy the Judge that the notice and copy order have reached you, I shall feel obliged by your signing and returning to me, through the post-office, the acknowledgment to that effect, which you will find written in the fold of the copy enclosed (marked B.) of the notice (*i*).

I am, &c.,

X. Y.

164.

Acknowledgment of the receipt of the notice (*j*). [Dan. Pr. 278.]

(*Place and date.*)

I, S. T., of, *&c.*, hereby acknowledge to have received, through the post-office, on the ——, 188—, a notice with an indorsement thereon, in the form or to the effect of the within-written notice and of the indorsement thereon, and also a document purporting to be a copy of an order made on the —— of ——, 188—, in the within-mentioned action, directing such notice to be transmitted to me.

S. T.

---

164 a.

Notice of judgment by advertisement (*jj*). [Dan. Pr. 277, 278.]

(*Short title and reference to the record.*)

To C. D., now or late of ——, in the County of —— (*description*).

Take Notice, that, by an order of his lordship the honourable Mr. Justice ——, dated the —— day of ——, 188—, personal service upon you of notice of the judgment [*or*, order] in this action, dated the ——

(*i*) It is advisable to send a form of acknowledgment for signature.

(*j*) The form assumes that the acknowledgment will be written on a copy of the notice and indorsement. Where it is not so intended, the terms of the acknowledgment should be varied accordingly, and made sufficiently explicit.

(*jj*) For form of notice of judgment by advertisement, see *Re Frohawk, Vincent* v. *Alpe*, London Gazette, 15 Aug. 1884. In that case the advertisement does not give the effect of the judgment. But it would seem to be the proper course to do so, as in the text.

day of ——, 188—, was dispensed with ; and it was ordered that publication in (*State the papers in which, and the dates or intervals at which, the advertisement was directed to appear,*) of notice of the said judgment [*or*, order], and of the memorandum prescribed by the Rules of the Supreme Court, and of the reciting order, should be deemed good service upon you ; and that the time within which you might apply to add to the said judgment [*or*, order] should be —— months after the last publication of such notice.

And further take notice, that by the said judgment [*or*, order], dated the —— day of ——, 188—, it was declared and adjudged [*or*, ordered] as follows (*Set out the declaratory and ordering parts of the judgment or order*).

And further take notice, that from the date of this advertisement you will be bound by the proceedings (*Continue as in* Form 159 *to* judgment), and that you may within —— months (*this time will agree with that fixed by the order directing the advertisement*) after the publication of the last of the advertisements authorized by the said order apply (*&c.; conclude as in* Form 159).

165.

Affidavit of service of notice of the judgment (*k*). [Dan. Pr. 278.

Formal parts : see Form 6.

Where a copy is served as notice : 1. On the —— of ——, 188—, I served A. B. with notice of the judgment [*or*, order] made in this action, dated the —— of ——, 188— : which said judgment [*or*, order] is now produced and shown to me (*l*), and is marked A.: by delivering to and leaving with the said A. B.,

Or if served on a substitute, say : with C. D., the person named in the order dated the —— of ——, 188—, hereinafter mentioned,

at (*State where*), a true copy of the said judgment [*or*, order].

Or, where a notice is served : 1. On the —— of ——, 188—, I served A. B. with a notice in writing of the judgment [*or*, order] made in this action, dated the —— of ——, 188—, and of which notice the paper writing, marked A., now produced and shown to me (*m*) is a true copy,

Or if a copy is not exhibited (*n*), *say :* and which notice was in the words and figures following, that is to say (*Set out the notice verbatim*),

by delivering such notice to, and leaving the same with, the said A. B.,

Or if served on a substitute, say : with C. D., the person

(*k*) See R. S. C. Ord. XVI. 42, 44.

(*l*) Exhibit it. For form of memorandum, see Form 28. If not exhibited the mandatory part must be recited.

(*m*) Exhibit it. For form of memorandum, see Form 28.

(*n*) It seems to be usual and advisable to exhibit a copy of the notice, instead of setting out its contents in the affidavit.

named in the order dated the —— of ——, 188—, hereinafter mentioned,

at (*State where*).

In every case: 2. The copy [*or*, the notice] served as aforesaid of the said judgment [*or*, order] had, at the time of such service, a memorandum indorsed thereon in the words following, that is to say (*Set forth a copy of the memorandum*).

Or if the judgment or order, or a copy of the notice, is exhibited, with a copy of the memorandum indorsed, say, after thereon: and of which memorandum the memorandum marked B., now produced and shown to me (*o*), and indorsed on the said exhibit marked A., is a true copy.

Where service is made under a special order: 3. At the time of the aforesaid service of the said copy [*or*, notice] of the said judgment [*or*, order], I also served the said C. D. with the order made in this action dated the —— of ——, 188—, now produced and shown to me and marked C. (*o*), by delivering a true copy of the said order to, and leaving the same with, the said C. D.; and I, at the same time, showed to him the said original order, duly passed and entered.

Identity of individual served; 4. A. B., hereinbefore named, is one of the residuary legatees of G. H., the testator in the proceedings in this action named [*or as may be*] (*p*).

5. (*Show means of knowledge.*)

166

Affidavit of service of the notice on numerous persons. [Dan. Pr. 278.

Formal parts: see Form 6.

1. On the respective days mentioned in the first column of the schedule hereto, I served the several persons whose names are set forth in the second column of the said schedule, opposite to the said respective days, with a notice of the judgment [*or*, order] made in this action, dated the —— of ——, 188—: which said judgment [*or*, order] is now produced and shown to me (*o*), and is marked A.: by delivering a true copy of the said judgment [*or*, order] to, and leaving the same with, each of the persons whose names are set forth in the third column of the said schedule, at the respective places set forth in the fourth column thereof, opposite to their said respective names (*q*).

2. Each of the said copies had, at the time of such service thereof as aforesaid, indorsed thereon a memorandum addressed to the person on or for whom respectively I so served the same, and of which memorandum the paper writing marked B., now produced and shown to me (*o*), and

(*o*) Exhibit it. For form of memorandum, see Form 28.

(*p*) The identity of the person served with the person required to be served must be established, either by the affidavit of the person who served the notice (if he is competent to swear thereto), or in some other manner.

(*q*) If a notice, instead of a copy, is served, vary the affidavit, as in Form 165.

indorsed on the said exhibit marked A., is a true copy, except that the said address is omitted in such exhibited copy.

3. The several persons served as aforesaid are interested in the matters in question in this action in the manner set forth in the fifth column of the said schedule, opposite to their said respective names (*r*).

4. (*Show means of knowledge.*)

Where service is made under a special order, add: 5. At the time I served the said copy as aforesaid on L. J. and J. T., in the said schedule named, I served each of them with the order made in this action, dated the —— of ——, 188—, now produced and shown to me, and marked C. (*Order directing substituted service*), by delivering a true copy of the said order to, and leaving the same with, each of them the said L. J. and J. T.; and I at the same time produced and showed to each of them the said original order, duly passed and entered.

[The Schedule

(*r*) See Form 165, note (*p*), as to establishing the identity of the parties served.

SCHEDULE.

Date of service.	Name of person served with notice.	Name and description of person on whom notice served.	Place of service.	Nature of interest of person served.
1884—October 20.	John Denn	The said John Denn, personally.	No. 500, Fleet Street, in the City of London.	As two of the residuary legatees named in the will of D. B., the testator in the proceedings in this action named.
„ November 1.	Richard Fenn	George Fenn, son of the said Richard Fenn, personally.	The dwelling-house of the said Richard Fenn, situate No. 80, Lincoln's Inn Fields, in the County of Middlesex.	
„ „ 2.	Ann Doe, Spinster . .	Lewis Jones, in the Order dated the ——, 188—, named, personally.	Esher, in the County of Surrey.	As children of X. Y., deceased, another of the said residuary legatees.
„ „ 3.	Mary Roe, Widow . . .	James Thompson, in the Order dated the ——, 188—, named, personally.	Hampstead, in the County of Middlesex.	

167.

Affidavit of service of notice through the post (*s*). [Dan. Pr. 278.]

Formal parts : see Form 6.

1. I have, in the manner hereinafter mentioned, served S. T., in the order made in this action dated the —— of ——, 188—, (*Order directing special mode of service*) named, with notice of the judgment [*or*, order] made in this action and dated the —— of ——, 188—.

2. On the —— of ——, 188—, I put into the post office receiving house, situate No. ——, in —— street, in the (county) of ——, a letter duly addressed thus : (*Set out the address*) ; and with the proper postage stamp affixed thereto, as a pre-paid letter ; and of which letter the paper writing marked A. now produced and shown to me (*t*) is a true copy.

3. The said letter, at the time I posted the same as aforesaid, contained a true copy, as passed and entered, of the order in this action, dated the —— of ——, 188—, now produced and shown to me (*t*), and marked B. (*Order directing special service*), and also a notice of the said judgment [*or*, order] dated the —— of ——, 188—, with a memorandum indorsed thereon addressed to the said S. T., and of which two documents the notice marked C., and memorandum indorsed thereon marked D., now respectively produced and shown to me (*t*), are true copies ; and also contained the acknowledgment, marked E. (*t*), now appearing in the fold of the said notice, except that such acknowledgment was then undated and unsigned.

4. The said exhibited documents, marked C. D., and E., were received by me on the —— of ——, 188—, through the post office.

5. Under the circumstances hereinbefore stated, I verily believe that notice of the said judgment [*or*, order], with such indorsement thereon as aforesaid, and a copy of the said order of the —— of ——, 188— (*Order directing service*), were duly received by the said S. T., at ——, aforesaid, on or about the —— of ——, 188—.

168.

Motion paper or summons for leave to enter memorandum of service, where service irregular (*u*). [Dan. Pr. 279.]

Formal parts : *see* Form 36 *or* 43.

on the part of the plaintiff, that the proper officer may be directed to enter a memorandum of service of notice of the judgment [*or*, order] dated the ——, 188—, upon A. B., *&c.*, on an affidavit of C. D., filed ——, 188—, of such service.

169.

Præcipe for entry of a memorandum of service of notice (*v*). [Dan. Pr. 279.]

(*Title and reference to the record.*)

Enter memorandum of service of notice of the judgment [*or*, order]

(*s*) See Forms 163 and 164.

(*t*) Exhibit same. For form of memorandum thereof, see Form 28.

(*u*) See R. S. C. Ord. XVI. 42 ; and note (*a*), *supra*.

(*v*) R. S. C. Ord. XVI. 42, and App. G, No. 26.

made in this action and dated the —— day of ——, 188—, upon the undermentioned persons, viz. :—

Name of Party served.	Date of Service.
John Denn	1884.—October 20.
Richard Fenn	,, November 1.

Dated this —— day of ——, 188—.

(*Name, &c., of solicitor or party entering the memorandum, see* Form 37.)

(*Short title and reference to the record.*)

B. *v.* D.

170. Certificate of such entry having been made (*w*). [Dan. Pr. 279.]

These are to certify that a memorandum of service of notice of the judgment [*or*, order] made in this action and dated the —— day of ——, 188—, upon the undermentioned persons, viz. : (*Set out the names*), was duly entered on the —— day of ——, 188— (*x*).

Formal parts : see Form 150.

171. Memorandum of appearance by party served (*y*). [Dan. Pr. 280, cccxlvi.]

Enter an appearance for G. H. who has been served with notice of judgment in this action dated the —— day of ——, 188—.

(*w*) A fee is payable for the certificate of 2*s.* 6*d.* : by a stamp impressed upon or adhesive to the certificate : Ord. as to S. C. Fees, 1884, Sched. No. 42 : Ord. as to Fees, &c., July, 1884, p. 7. A copy of the certificate must be left at Chambers, certified by the solicitor having charge of the proceedings ; R. S. C. Ord. LV. 31.

(*x*) The certificate is sealed with the seal of the Central Office, which encloses the date on which the certificate was granted.

(*y*) See R. S. C. Ord. XVI. 41 ; and note (*a*), *supra*. A copy of the memorandum certified by the solicitor must be left in Chambers by the solicitor entering the appearance : R. S. C. Ord. LV. 31. As to the fee payable on entering appearance, see note (*e*) to Form 150. As to appearance by an infant, see R. S. C. Ord. XVI. 18. As to costs of parties served with notice of judgment and attending the proceedings, see *Sharp* v. *Lush*, 10 Ch. D. 468 ; *Day* v. *Batty*, 21 Ch. D. 830. A residuary legatee, served with notice of the judgment, and attending the proceedings, may obtain, on the death of the plaintiff, an order to continue the proceedings : *Burstall* v. *Fearon*, 24 Ch. D. 126 : 31 W. R. 581.

172.

Summons to enlarge time to apply to discharge, vary, or add to the judgment or order (*z*). [Dan. Pr. 279.]

Formal parts : see Form 43.

on the part of G. H., who is attending the proceedings under the judgment [*or*, order] dated the —— day of ——, 188—, that the time limited by the Rules of the Supreme Court, Order XVI., rule 40, for the applicant to apply to the Court to discharge, vary, or add to the said judgment [*or*, order] may be enlarged to the —— day of ——, 188—.

173.

Summons for leave to apply to discharge, vary, or add to the judgment or order, notwithstanding time has expired (*a*). [Dan. Pr. 279.]

Formal parts : see Form 43.

on the part of G. H., who [*&c.*, as in Form 172], that, notwithstanding the time limited by the Rules of the Supreme Court, Order XVI., rule 40, has expired, the applicant may be at liberty to apply to the Court to add to the said judgment [*or*, order].

174.

Summons to add to judgment or order.

(*Same as* Form 1164.)

175.

Notice of motion by party served with notice of judgment or order for leave to appeal therefrom (*b*).

Formal parts : see Form 38.

on the part of G. H., who [*&c.*, *as in* Form 172], that he may be at liberty to serve, and to set down for hearing, a notice of motion by way of appeal from the said judgment [*or*, order], dated the —— day of ——, 188—.

Or, from so much of the said judgment [*or* order], dated the —— day of ——, 188—, as directs (*State what*).

Section V.—Alteration of Parties on a Change or Transmission of Interest (*a*).

(*Dan. Pr.*, pp. 282—312, cccxlvii.—cccxlix.)

(*a*) *Change of Parties by Death, &c.—Summary of Material Provisions of R. S. C.* 1883.

Order.

Effect of change of parties.—No abatement by marriage, death, or bankruptcy of any of the parties, where cause of action survives.—Action does not become defective by assignment, crea-

(*z*) Unless the time is enlarged the application must be made within one month after service, see R. S. C. Ord. XVI. 40 ; and note (*a*), *supra*. As to mentioning a longer period in the indorsement where the notice is served out of the jurisdiction, see Form 161, and note (*h*) thereto.

(*a*) *Ibid.* As to what accounts and enquiries may be thus added, see Dan. Pr. 1011.

(*b*) See Dan. Pr. 282, 1284.

	ORDER.
tion, or devolution of any estate or title *pendente lite*.—Whether cause of action survives or not, no abatement by reason of the death of either party between verdict or finding of issues of fact and judgment	XVII. 1.
Successors in interest: how brought before Court.—In case of marriage, death, bankruptcy, or devolution of estate by operation of law, the Court may order successor in interest to be made a party or served with notice	,, 2.
Assignment, &c., pendente lite.—In case of assignment, creation, or devolution of any estate or title *pendente lite*, the action may be continued by or against the person to or upon whom the estate or title has devolved	,, 3.
Order to carry on proceedings.—An order to carry on proceedings between continuing parties and new parties may be obtained *ex parte* upon allegation	,, 4.
Service of order.—Order must be served on continuing and new parties, and an appearance entered by new parties, as in case of parties served with writ of summons	,, 5.
Application to discharge the order:—	
(1) By person under no disability, or having a guardian *ad litem*, to be made within *twelve days* from service	,, 6.
(2) By person under disability, and having no guardian *ad* litem, within *twelve days* from appointment of such guardian	,, 7.
Death of sole plaintiff or defendant.—When plaintiff or defendant dies, and cause of action survives, the defendant (or the person against whom the action may be continued), may apply by summons to compel plaintiff (or person entitled to proceed), to proceed with action; and in default judgment may be entered, and execution may issue	,, 8.
Notice of abatement.—Solicitor must give notice of abatement to the proper officer	,, 9.
A cause marked "abated" to be struck out of cause-books *after one year*	,, 10.

As to change of parties, see 2 Seton, 1526—1531.

176.

Petition of course for order for surviving plaintiffs, or a plaintiff's successors, to carry on proceedings (*b*). [Dan. Pr. 290.]

Formal parts: see Form 39.

The humble petition of (*c*)
the plaintiffs C. D. and E. F.; *or*,
P. Q. and R. S., the legal personal representatives [*or as the*

(*b*) See R. S. C. Ord. XVII. 4. The proper mode of obtaining the order is by petition of course, or motion of course: *Roffey* v. *Miller*, 24 W. R. 109; *Walker* v. *Blakemore*, W. N. (1876), 112; and not by application to the Court: *Ibid.*; *Crane* v. *Loftus*, 24 W. R. 93; *Darcy* v. *Whittaker*, W. N. (1876), 17: 24 W. R. 244; *Dyer* v. *Painter*, W. N. (1881), 105; and in one case an application to the Court was refused, and the applicant was directed to the order of course office; *Roffey* v. *Miller*, 24 W. R. 109. Proceedings by petition and originating summons may be directed to be carried on by order of course, in the same manner as an action; Dan. Pr. 298; 2 Seton, 1531. It is usually sufficient to allege in the petition the last material proceeding in the action and the present position thereof, the particular event causing the change or transmission of interest or liability, and the consequent change or transmission thereof; in some cases, however, it may be necessary to state shortly the objects of the suit: Pemberton on Revivor and Supplement, p. 111.

(*c*) Where there is a change or transmission of the interest of one of several plaintiffs, the order to carry on the proceedings may be obtained either by the

case may be] of the late plaintiff A. B., now deceased [*or as the case may be*].

Showeth as follows :

1. *State shortly the last material proceeding in the action and the present position thereof; as thus :* On the —— day of ——, 188—, judgment was given in this action, whereby certain accounts and enquiries were directed to be taken and made : which accounts and enquiries are now in course of prosecution.)

2. (*State the particular event which has caused the change or transmission of interest or liability, and allege the consequent change or transmission thereof; for forms of allegation, see* Form 179.)

Your petitioners therefore humbly pray, that the proceedings in this action may be carried on and prosecuted by your petitioners against the said (*Continuing defendants*), and against the said P. Q. and R. S., the legal personal representatives of the late plaintiff A. B. [*or*, against the surviving plaintiffs C. D. and E. F.—*or as may be*], in like manner as such proceedings might have been carried on and prosecuted by the said A. B., C. D., and E. F., if the said A. B had not died [*or*, had not become bankrupt —*or as the case may be.*]

177.

Motion paper for the like purpose. [Dan. Pr. 290.]

Formal parts : see Form 36.

To move on behalf of the plaintiffs C. D. and E. F. [*or*, of P. Q. and R. S. the legal personal representatives—*or as the case may be*—, of the late plaintiff A. B. now deceased—*or as the case may be*], that the proceedings in this action may be carried on and prosecuted by the applicants against (*Continue as in Form* 176 *to the end*).

178.

Petition of course for order to carry on proceedings against defendant's successors (*d*). [Dan. Pr. 290.]

Formal parts : *see* Form 39.

The humble petition of the plaintiffs.

Showeth as follows :

1. (*See par.* 1 *of* Form 176.)

2. (*See par.* 2 *of* Form 176.)

Your petitioners therefore humbly pray, that the proceedings in this action may be carried on and prosecuted by

surviving plaintiffs and the successors of the other plaintiff jointly, or by the surviving plaintiffs or any of them separately, or by the successors of the plaintiff whose interest has been transmitted separately ; Dan. Pr. 287. A person served with notice of judgment, and having liberty to attend the proceedings, can obtain the common order to revive on death of a sole plaintiff : *Burstall* v. *Fearon*, 24 Ch. D. 126 : 31 W. R. 581.

(*d*) See note (*b*) to Form 176. An order obtained by plaintiff to revive against representatives of deceased defendant is not sufficient to enable such representatives to proceed with a counterclaim of the deceased defendant ; they must themselves obtain an order to carry on proceedings on the counterclaim : *Andrew* v. *Aitken*, 21 Ch. D. 175 : 30 W. R. 701. Where defendant in an action founded on

your petitioners against the said P. Q. and R. S. (*Successors in interest or liability of the defendant*),

If there were several defendants, say : against the said C. D. and E. F. (*continuing defendants*), and the said P. Q. and R. S. (*Successors of a defendant*),

in like manner as such proceedings might have been carried on and prosecuted against the said A. B. [*or*, against the said A. B., C. D., and E. F.] if the said A. B. had not died [*or*, had not become bankrupt—*or as the case may be*].

179.

Common forms of allegations in petition for order to carry on proceedings (*dd*).

Assignment.—By an indenture, dated the —— day of ——, 188—, and made between, *&c.*, all the share and interest of the plaintiff [*or as may be*] has been assigned to and has become vested in E. F.

Bankruptcy.—On the —— day of ——, 188—, the plaintiff [*or as may be*] was adjudicated a bankrupt; and C. D. has been appointed, and now is, the trustee of the property of the said plaintiff [*or as may be*] under the said bankruptcy.

Bankruptcy: Official Receiver.—On the —— day of ——, 188—, the plaintiff [*or as may be*] was adjudicated a bankrupt, but no trustee of the property of the said plaintiff [*or as may be*] under the said bankruptcy has yet been appointed. A. B., of ——, is the official receiver.

Bankruptcy : Appointment of new trustee.—E. F. has been appointed, and is now, the trustee of the property of the said A. B., in lieu of the said C. D.

Death.—On the —— day of ——, 188—, the plaintiff [*or as may be*] died.

Heirship.—The said plaintiff [*or as may be*] left A. B. his heir-at-law.

Or, his heir according to the custom of the manor of C., whereof the hereditaments in the pleadings mentioned are holden.

Letters of administration.—On the —— day of ——, 188—, letters of administration of the personal estate of the said A. B. were granted by the Principal Registry [*or as may be*] of the Probate Division of Her Majesty's High Court of Justice to C. D. : whereby he became, and is now, the legal personal representative of the said A. B.

tort dies before trial, and more than six months after commencement of the action the further proceedings cannot be continued against his representatives : *Kirk* v. *Todd*, 21 Ch. D. 484 : 31 W. R. 69 ; 3 & 4 Will. IV. c. 42, s. 2.

(*dd*) For forms of allegations, see 2 Seton, 1526, 1527.

Lunacy, and appointment of committee.—On the —— day of ——, 188—, the plaintiff [*or as may be*] was found lunatic by inquisition [*or as may be*]; and C. D. has been appointed, and is now, the committee of his estate.

Lunacy: Appointment of new committee.—On the —— day of ——, 188—, E. F. was appointed, and is now, the committee of the estate of the said A. B., in lieu of the said C. D.

Marriage of female plaintiff.—On the —— day of ——, 188—, the plaintiff A. B. intermarried with, and she is now the wife of, C. D., of, *&c.*

Marriage.—Settlement.—On the —— day of ——, 188—, the plaintiff [*or as may be*] intermarried with, and she is now the wife of, C. D., of, *&c.* Previous to and in contemplation of the said marriage an indenture of settlement dated the —— day of ——, 188—, was executed, whereby all the share and interest of the plaintiff [*or as may be*] was assigned to, and is now vested in, E. F. and G. H., the trustees of the said indenture.

Probate.—The said A. B., by his last will, dated the —— day of ——, 188—, appointed C. D. and E. F. executors thereof. On the —— day of ——, 188—, the said will was proved by the said C. D. and E. F., in the Principal Registry [*or as may be*] of the Probate Division of Her Majesty's High Court of Justice: whereby they became, and are now, the legal personal representatives of the said A. B.

180.

Petition of course to continue proceedings against infant born after judgment (*f*).

Formal parts: see Form 39.

The humble petition of the above-named plaintiff.

Showeth as follows:

1. By the judgment in this action dated the —— day of ——, 188—, certain accounts and inquiries were directed to be taken and made: which are in course of prosecution.

2. Since the date of the said judgment, viz., on or about the —— day of ——, 188—, a child named A. B. has been born to the defendant C. B.; and such child has an interest in the subject-matter of this action [*or*, is a necessary party to this action].

Your petitioner therefore humbly prays,

1. That the proceedings in this action be carried on between the plaintiffs and the defendants and the said A. B.

(*f*) See 2 Seton, 1527, No. 3; and see *Peter* v. *Peter*, 26 Ch. D. 181: 32 W. R. 515, in which the present form of order was finally settled by Chitty, J.

2. That an inquiry may be directed whether any proceedings affecting the interest of the infant A. B. in this action have been had therein since his [*or*, her] birth; and if so, whether it will be fit and proper and for the benefit of the said infant, that he [*or*, she] should be bound by the said judgment and the proceedings thereunder; and that if it shall be so certified, it may be ordered that the infant A. B. be bound accordingly as from the date of the said judgment.

181.

Petition of course for order to carry on proceedings against representatives of deceased accounting party with an account of his estate on non-admission of assets (*e*). [Dan. Pr. 291.]

Formal parts: see Form 39.

The humble petition of the plaintiff.

Showeth as follows:

1. (*See par.* 1 *of* Form 176.)

2. (*See par.* 2 *of* Form 176.)

Your petitioner therefore humbly prays, that the judgment dated &c., and the several proceedings thereunder, and the accounts and enquiries thereby directed, may be carried on between your petitioner and the said P. Q. and R. S. in like manner as they would have been carried on between the plaintiff and the said E. F. if he had not died; and that what on taking the said accounts shall appear to have come to the hands of the said E. F. may be answered by the said P. Q. and R. S., his executors [*or*, administrators], out of his assets in a due course of administration; and in case they shall not admit assets of the said E. F. for that purpose, an account may be taken of his personal estate come to the hands of the said P. Q. and R. S., or either of them, or to the hands of any other person or persons by the order or for the use of the said P. Q. and R. S., or either of them.

182.

Petition of course for leave for new public officer to carry on proceedings (*f*). [Dan. Pr. 76, note (*k*).]

Formal parts: see Form 39.

The humble petition of the —— company.

Showeth as follows:

1. This action was commenced on behalf of your petitioners by the above-named A. B. as their registered public officer. (*State the last material proceeding in the action and the present position thereof; see par.* 1 of Form 176.)

2. On the —— day of ——, 188—, the said A. B. died [*or*, resigned—*or*, was removed from—his office of public officer of your petitioners].

(*e*) See 2 Seton, 1527, No. 2.

(*f*) See 7 Geo. 4, c. 46, s. 9. For form of order see *Meek* v. *Burnley*, M. R., 12 Jan. 1863, Reg. Lib. B. 6; 2 Seton, 1528, No. 5. The application must be supported by an affidavit verifying the statements in the petition.

3. C. D., of (*residence and addition*), is now the registered public officer [*or*, one of the registered public officers] of your petitioners, and is duly registered and appointed to sue and be sued on their behalf.

Your petitioners therefore humbly pray, that this action may be continued, carried on and prosecuted in the name of the said C. D. as their registered public officer, in the room of the said A. B. as the nominal plaintiff in this action.

183.

Summons for leave to serve order out of jurisdiction (*h*).

Formal parts: see Form 43.

on the part of the plaintiff, that he may be at liberty to serve the order dated the —— day of ——, 188—, to carry on and prosecute the proceedings in this action, together with a copy of the order to be made on this application, on C. D., at —— or elsewhere in the [kingdom] of ——; and that the said C. D. may have —— days to enter an appearance to, and apply to the Court to discharge or vary, the said order; and that the costs of this application may be costs in the action.

184.

Motion paper for order for substituted service of order. [Dan. Pr. 294.]

Formal parts: see Form 36.

To move on behalf of the plaintiff [*or as may be*], that he may be at liberty to serve the order, dated the —— day of ——, 188—, to carry on and prosecute the proceedings in this action, together with a copy of the order to be made on this application on C. D., by (*Here describe the mode of service proposed; see* Form 989).

185.

Summons for the like. [Dan. Pr. 294.]

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be*], that he may be at liberty (*Continue as in* Form 184 *to the end*).

186.

Affidavit in support.

(*See* Form 990.)

187.

Memorandum of appearance (*i*). [Dan. Pr. 295.]

Formal parts: see Form 150.

A. B. *v.* C. D. and others.

Enter an appearance for X. Y., who has been served with an order

(*h*) As to service of the order see R. S. C. Ord. XVII. 5; and note (*a*), *supra*.

(*i*) See R. S. C. Ord. XVII. 5; and note (*a*), *supra*. This form is given in R. S. C. App. A., Part II., No. 6. As to the fee payable on entering an appearance, see note (*e*) to Form 150

dated the —— day of ——, 188—, to carry on and prosecute the proceedings in this action.

188.

Notice of motion to discharge or vary order to carry on proceedings (*k*). [Dan. Pr. 300.]

Formal parts: see Form 38.

on the part of the defendant [*or*, of X. Y., who has been served with the order, dated the —— day of ——, 188—, to carry on the proceedings in this action], that the [said] order, dated the —— day of ——, 188—, whereby it was ordered that (*Recite ordering part*),

Or, that so much of the said order, dated the —— day of ——, 188—, as directs that (*Recite the part in question*),

may be discharged [*or*, may be varied by (*Specify the variation desired*)]: with costs to be paid by (*Name the party who obtained the order*) to the applicant.

189.

Summons to compel representatives of a deceased plaintiff to proceed (*l*). [Dan. Pr. 288.]

Formal parts: see Form 43.

on the part of the defendant A. B., that

Where the action was brought by a sole plaintiff, say: C. D. and E. F., the legal personal representatives [*or as may be*] of the [late] plaintiff G. H., now deceased [*or as may be*]

Where the action was brought by several plaintiffs, say: the plaintiffs J. K. and L. M. (*Continuing plaintiffs*)

may be ordered within one month to obtain and serve on the applicant an order to carry on and prosecute the proceedings in this action against the said defendant; and that in default thereof the applicant may be at liberty to sign judgment for his costs of defence in this action, and to issue execution therefor; and that the costs of this application may be the costs of the applicant in any event.

190.

Summons by the representatives of deceased defendant to compel plaintiff to proceed (*l*). [Dan. Pr. 288, cccxlviii.]

Formal parts: see Form 43.

On the part of E. F. and G. H., the legal personal representatives of the late defendant A. B. now deceased, that the plaintiff may be ordered within one month to obtain and serve on them an order to carry on and prosecute the proceedings in this action against the applicants; and that in default thereof the applicants may be at liberty to sign judgment for the costs of defence herein, and to issue execution therefor; and that the costs of this application may be the costs of the applicants in any event.

(*k*) See R. S. C. Ord. XVII. 6, 7. In *Delany* v. *Delany*, 27 Sol. J. 418, an order of course at instance of party who had not obtained an order to attend proceedings was discharged.

(*l*) See R. S. C. Ord. XVII. 8; and note (*a*), *supra*.

191.

Certificate by solicitor that cause has abated (*m*). [Dan. Pr. 305, cccxlviii.]

(*Short title and reference to the record.*)

I hereby certify that this cause or matter has become abated [*or as may be*] by reason of (*State the cause of the abatement, &c.*).

Dated the —— day of ——, 188—.

(*Name and address of solicitor.*)

(*m*) See R. S. C. Ord. XVII. 9, 10; and note (*a*), *supra*.

CHAPTER V.

PROCEEDINGS ON THE PART OF THE PLAINTIFF PREVIOUS TO THE ISSUE OF THE WRIT OF SUMMONS.

(*Dan. Pr.*, pp. 307—312, cccxlviii.—cccxlix.)

192.
Notice of the action (*a*).
[Dan. Pr. 308.]

To C. D., of (*address and addition*), and E. F., of (*address and addition*).

I, A. B. [*or*, I, G. H., of (*address*), as solicitor for and on behalf of A. B. (*b*)] of (*address and addition*), do hereby, according to the form of the statute in such case made and provided, give you notice that I [*or*, the said A. B.] will, at or after the expiration of one calendar month (*c*) from the time of your being served with this notice, cause a writ of summons to be issued out of Her Majesty's High Court of Justice against you at my suit [*or*, at the suit of the said A. B.], and proceed thereon according to law: for that (*Here state the cause of action with clearness and certainty, and so as to inform the person served of the ground of complaint* (*d*)).

Dated this —— day of ——, 188—.

Yours, &c.,

A. B.,

[*Or*, G. H., solicitor for A. B. (*e*)].

193
Indorsement on notice (*f*).

A. B. of (*address and addition*).

Or, G. H., of (*address*), solicitor for A. B., of (*addess and addition*).

(*a*) Many statutes require notice to be given before an action can be brought in respect of any act done in pursuance of them; Chitty's Arch. ed. 13, 1075; see 10 Geo. IV. c. 44, s. 41; 1 & 2 Wm. IV. c. 41, s. 19; 2 & 3 Vict. c. 71, s. 53; 8 & 9 Vict. c. 87, s. 117; 9 & 10 Vict. c. 95, s. 138; 11 & 12 Vict. c. 44, s. 9. As to the notice in general, see Chitty's Arch. 1075—1080. As to the form and contents of the notice, see *Ibid.*, 1078, 1079. The service should be effected as directed by the particular statute; generally it is sufficient to serve it personally, or to leave it for the intended defendant at his usual place of abode; Chitty's Arch. 1079. For forms, see Chitty's Forms, 51—55.

(*b*) Sometimes the party himself must give the notice; sometimes it may be given by his solicitor or other agent on his behalf; Chitty's Arch. 1077.

(*c*) One calendar month's notice is sufficient in every case; 5 & 6 Vict. c. 97, s. 4.

(*d*) As to the contents of the notice, see Chitty's Arch. 1078.

(*e*) The notice should be signed; Chitty's Arch. 1079.

(*f*) Sometimes the statute requiring the notice to be given requires the name and place of abode of the intended plaintiff, or his solicitor, to be indorsed on the notice; Chitty's Arch. 1079.

194.

Demand of perusal and copy warrant (*g*).

To C. D., of (*address*).

I, A. B., of (*address and description*)—*Or*, I, G. H., of (*address*), solicitor for A. B., of (*address and description*), do hereby, according to the form of the statute in such case made and provided, demand of you the perusal and copy of the warrant by virtue or under colour whereof you did on or about the —— day of ——, 188—(*Here describe the acts complained of*).

Dated —— day of ——, 188—.

Yours, &c.,
A. B.,
[*Or*, G. H., solicitor for A. B.]

(*g*) When an action is intended to be brought against a constable or other officer, or any person acting by his order or in his aid, for anything done by him in obedience to a warrant under the hand and seal of a justice of the peace, a demand in writing for the perusal and copy of such warrant, signed by the party demanding the same, or by his solicitor, must be made or left at the usual place of abode of such constable or officer, by the plaintiff, or his solicitor, or agent: 24 Geo. II. c. 44, s. 6. As to this enactment, and the cases decided thereon, see Chitty's Arch. 1056; and also Chitty's Forms, 54, note (*e*). For form in the text, see Chitty's Forms, 54.

CHAPTER VI.

THE WRIT OF SUMMONS (*a*).

(*Dan Pr.*, pp. 313—345, cccxlix.—cccliii.)

	R. S. C.
(*a*) *Commencement of action.*—All suits formerly commenced by bill or information are to be instituted in the High Court by a proceeding to be called an action	Ord. I. 1.
Every action is to be commenced by writ of summons: which is to be indorsed with a statement of the nature of the claim made or relief required; and to specify the Division of the High Court to which the action is to be assigned . . .	,, II. 2.

Section I.—The Authority to institute the Action.

(*Dan. Pr.* 313—316.)

195.

I, A. B., of (*residence and addition*), authorize Mr. C. D., of (*place of business*), to commence and prosecute an action on my behalf, in the High Court of Justice for (*State succinctly the object; as thus:*) the administration of the estate of E. F., deceased.

Dated this —— day of ——, 188—.

A. B.

Authority to solicitor to institute and prosecute action (*b*). [Dan. Pr. 313.]

(*b*) As to staying an unauthorized action, see Dan. Pr. 314—316; and Chapter XXXV. Care must be taken that the writ is issued in the name of the solicitor actually retained: see *Wray* v. *Kemp*, 26 Ch. D. 169: 32 W. R. 334, where plaintiff obtained an order to strike her name out of the writ as having been issued without her authority, the retainer having been given to the country solicitor, and the writ issued by the London agent of such solicitor, without describing him as such. For form of authority by next friend of infant or lunatic, see Form 68. For form of authority by relator, see Form 45.

Section II.—The Form of the Writ of Summons (*c*).

(*Dan. Pr.*, pp. 317—322, cccxlix.—cccl.)

(*c*) *Form of Writ of Summons.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Writs of summons must be in the prescribed form.	
(1) For service within the jurisdiction	II. 3.
(2) For service out of the jurisdiction	,, 5.
The costs of a writ not in the prescribed form, or unnecessarily prolix, must be borne by the party using the same . . .	,, 2.
How prepared.—Writs must be prepared by plaintiff or his solicitor; and written or printed on paper of the description prescribed by the rules (Ord. LXVI. 3)	V. 10.
Date and teste.—Writs must be dated on the day of issue, and be tested in the name of the Lord Chancellor, or, if that office be vacant, in the name of Lord Chief Justice of England . .	II. 8.

(1.) *Official Forms of Writ.*

196.

Writ of summons for service within the jurisdiction (*d*). [Dan. Pr. 317.]

188—. B. No.— (*e*).

In the High Court of Justice,
Chancery Division (*f*).
V. C. Bacon.
[*or*, Kay, J.]
[*or*, Chitty, J.]
[*or*, Pearson, J.] (*g*).

In the matter of the Estate of F. B., deceased (*h*).

Between A. B. . . . . Plaintiff.
and
C. D. . . . . Defendant.

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To C. D., of ——, in the county of ——.

We command you, that within eight days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in an action at the suit of A. B.; And take notice that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

Witness, Roundell, Earl of Selborne, Lord High Chancellor of Great

(*d*) See R. S. C. Ord. II. 3; App. A., Part 1, No. 1.
(*e*) See R. S. C. Ord. V. 8; Form 1.
(*f*) *Ibid.*, II. 1.
(*g*) *Ibid.*, V. 9, (*a*), (*e*); and note (*a*) at p. 127.
(*h*) As to this statement, see *Eyre* v. *Cox*, 24 W. R. 317. It is necessary only in the case of an action to administer the estate of a deceased person; in such a case the reference to the record contains the initial letter of the deceased person whose estate it is sought to administer, and not of the plaintiff.

Britain, the —— day of ——, in the year of Our Lord one thousand, eight hundred, and eighty —— (*i*).

Memorandum to be subscribed on the writ.

N.B.—This writ is to be served (*j*) within twelve calendar months from the date thereof, or, if renewed (*k*), within six calendar months from the date of the last renewal, including the day of such date, and not afterwards.

The defendant [*or*, defendants] may appear hereto by entering an appearance [*or*, appearances] either personally or by solicitor at the Central Office, Royal Courts of Justice, London (*l*).

Indorsements to be made on the writ before issue thereof.

The plaintiff's claim is for, *&c.* (*m*).

This writ was issued by the said plaintiff, who resides at ——, (*Mention the city, town, or parish, and also the name of the street and number of the house, of the plaintiff's residence, if any* (*n*).)

Or, This writ was issued by G. H., of ——, whose address for service is ——, solicitor for the said plaintiff, who resides at —— (*nn*).

Or, This writ was issued by G. H., of ——, whose address for service is ——, agent for J. K., of ——, solicitor for the said plaintiff, who resides at ——.

Indorsement to be made on the writ after service thereof (*o*).

This writ was served by me at ——, on the defendant C. D., on —— the —— day of ——, 188—.

Indorsed the —— day of ——, 188—.

(Signed)

(Address).

---

197. Specially indorsed writ for service within the jurisdiction (*p*). [Dan. Pr. 320.]

(*Heading as in* Form 196.)

Victoria, (*&c.: as in* Form 196.)

To C. D., of ——, in the county of ——.

We command you, that within eight days after the service of this writ on you, inclusive of the day of such service, you cause an appearance to be entered for you in an action at the suit of A. B. And take notice, that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

Witness (*&c.: as in* Form 196).

N.B.—This writ is to be served within twelve calendar months from

(*i*) See R. S. C. Ord. II. 8.
(*j*) As to service of the writ of summons, see Forms 366—375.
(*k*) As to renewal of the writ of summons, see Forms 346—350.
(*l*) See R. S. C. Ord. XII. 1, 2.
(*m*) *Ibid.*, III. 1; see Forms 205—331, 334—339.
(*n*) *Ibid.*, IV. 2; and Form 333; and see Form 4, note (*n*).
(*nn*) *Ibid.*, IV. 1; and Form 332.
(*o*) *Ibid.*, IX. 15; see Form 376.
(*p*) *Ibid.*, II. 3; App. A., Part I., No 2.

the date thereof, or, if renewed, within six calendar months from the date of the last renewal, including the day of such date, and not afterwards.

Appearance is to be entered at the Central Office, Royal Courts of Justice, London.

Statement of Claim :—

The plaintiff's claim is (*q*) (*See* Forms 315—327).

Particulars :—

Place of Trial —— (*rr*) (*See* Forms 315—327).

(Signed) —— (*rrr*).

And the sum of £——, [*or*, such sum as may be allowed on taxation] for costs. If the amount claimed is paid to the plaintiff or his solicitor or agent, within four days from the service hereof, further proceedings will be stayed (*r*).

This writ was issued (*&c.: as in* Form 196).

This writ was served by me (*&c.: as in* Form 196).

198.

Ordinary writ for issue from district registry (*s*).

188—. B. No. —.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
(Manchester) District Registry.

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant.

Victoria, (*&c.: as in* Form 196).

To C. D., of ——, in the —— of ——.

We command you, that within eight days after the service of this writ on you, inclusive of the day of such service, you cause an appearance to be entered for you in an action at the suit of A. B. And take notice, that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

Witness, (*&c: as in* Form 196).

N.B.—This writ is to be served within twelve calendar months from the date thereof, or, if renewed, within six calendar months from the date of the last renewal, and not afterwards.

A defendant who resides or carries on business within the above-named district must enter appearance at the office of the registrar of that district (*Insert address of office*) (*t*).

A defendant who neither resides nor carries on business within the

(*q*) R. S. C. Ord. III. 6.
(*r*) *Ibid.*, III. 7.
(*rr*) *Ibid.*, XX. 5.
(*rrr*) *Ibid.*, XIX. 4.
(*s*) *Ibid.*, II. 3; App. A., Part I., No. 3.
(*t*) *Ibid.*, V. 4.

said district may enter appearance either at the office of the said registrar or at the Central Office, Royal Courts of Justice, London (*u*).

The plaintiff's claim is for (*See* Form 196).

This writ was issued (*&c.: as in* Form 196).

N.B.—*The address for service must be within the district* (*v*).

This writ was served (*&c.: as in* Form 196).

199.

Specially endorsed writ for issue from district registry (*w*). [Dan. Pr. 319.]

(*Heading as in* Form 198.)

Victoria, (*&c.: as in* Form 196).

To C. D., of ——, in the —— of ——.

We command you, that within eight days after the service of this writ on you, inclusive of the day of such service, you cause an appearance to be entered for you in an action at the suit of A. B. And take notice, that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

Witness, (*&c.: as in* Form 196).

N.B.—This writ is to be served within twelve calendar months from the date thereof, or, if renewed, within six calendar months from the date of the last renewal, including the day of such date, and not afterwards.

A defendant who resides or carries on business within the above-named district must enter appearance at the office of the registrar of that district (*Insert address of office*).

A defendant who neither resides nor carries on business within the said district may enter appearance either at the office of the said registrar, or at the Central Office, Royal Courts of Justice, London.

Statement of Claim :—

The plaintiff's claim is (*See* Forms 315—327).

Particulars :—

Place of Trial —— (*See* Forms 315—327).

(Signed) ——.

And the sum of £——, [*or*, such sum as may be allowed on taxation], for costs. If the amount claimed is paid to the plaintiff or his solicitor or agent within four days from the service hereof, further proceedings will be stayed.

This writ (*&c.: as in* Form 196).

N.B.—*The address for service must be within the district.*

This writ was served (*&c.: as in* Form 196).

(*u*) R. S. C. Ord. V. 5.

(*v*) *Ibid.*, IV. 3. Where defendant does not reside within the district, a further address for service must be added, which must not be more than three miles from the principal entrance of the central hall at the Royal Courts of Justice; *Ibid.*

(*w*) See R. S. C. Ord. II. 3; App. A., Part I., No. 4.

200.

Writ of summons for service out of the jurisdiction, or whereof notice in lieu of service is to be given out of the jurisdiction (*x*).

(*Heading as in* Form 196.)

Victoria, (*&c.: as in* Form 196).

To C. D., of ——, in the —— of ——.

We command you, C. D., that within —— (*y*) after the service of this writ [*or*, of notice of this writ, *as the case may be*] on you, inclusive of the day of such service, you do cause an appearance to be entered for you in the Chancery Division of our High Court of Justice, in an action at the suit of A. B. And take notice, that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

Witness (*&c.: as in* Form 196).

N.B.—This writ is to be served within twelve calendar months from the date thereof, or, if renewed, within six calendar months from the date of the last renewal, including the day of such date, and not afterwards.

The defendant may appear hereto by entering an appearance, either personally or by solicitor, at the Central Office, Royal Courts of Justice, London.

The plaintiff's claim is (*&c.: as in* Form 196).

N.B.—This writ is to be used where the defendant, or all the defendants, or one or more defendant or defendants, is or are out of the jurisdiction. When the defendant to be served is not a British subject, and is not in British dominions, notice of the writ, and not the writ itself, is to be served on him.

This writ was issued (*&c.: as in* Form 196).

This writ [*or*, Notice of this writ] was served (*&c.: as in* Form 196).

201.

Writ specially indorsed for service out of the jurisdiction (*a*).

(*Heading as in* Form 196.)

Victoria, (*&c.: as in* Form 196.)

To C. D., of ——, in the —— of ——.

We command you that within (*Insert number of days directed by Court or Judge*) days after service of this writ [*or, if notice of the writ is to be served, say:* notice of this writ] on you, inclusive of the day of such service, you cause an appearance to be entered for you in an action at the suit of A. B. And take notice, that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

Witness (*&c.: as in* Form 196).

(*x*) No writ of summons for service out of the jurisdiction can be issued without leave of the Court or a Judge: R. S. C. Ord. II. 4. For the form in the text, see *Ibid.* II. 5; and App. A., Part I., No. 5.

(*y*) Here insert the number of days directed by the Court or Judge ordering the service or notice.

(*a*) See R. S. C. Ord. II. 5; App. A., Part I., No. 6.

N.B.—This writ [*or*, Notice of this writ] is to be served within twelve calendar months from the date thereof, or, if renewed, within six calendar months from the date of the last renewal, including the day of such date, and not afterwards.

Appearance is to be entered at the Central Office, Royal Courts of Justice, London.

Statement of Claim :—

The plaintiff's claim is (*See* Forms 315—327).

Particulars :—

Place of Trial —— (*See* Forms 315—327).

(Signed) ——.

And £—— [*or*, such sum as may be allowed on taxation] for costs.

If the amount claimed is paid to the plaintiff, or his solicitor or agent, within (*Insert number of days limited for appearance*) days from service [*If notice of the writ is to be served, say* : service of notice] hereof, further proceedings will be stayed.

This writ was issued (*&c.: as in* Form 196.)

This writ [*or*, Notice of this writ] was served (*&c.: as in* Form 196).

N.B.—This writ is to be used (*&c.: as in* Form 200).

202.

Ordinary writ from district registry for service out of the jurisdiction (*b*).

(*Heading as in* Form 198).

Victoria, (*&c.: as in* Form 196).

To C. D., of ——, in the —— of ——.

We command you, that within (*Insert number of days directed by Court or Judge*) days after service of this writ [*or, if notice of the writ is to be served, say:* notice of this writ] on you, inclusive of the day of such service, you cause an appearance to be entered for you in an action at the suit of A. B. And take notice, that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

Witness (*&c.: as in* Form 196.)

N.B.—This writ [*or*, Notice of this writ] is to be served within twelve calendar months from the date thereof, or, if renewed, within six calendar months from the date of the last renewal, including the day of such date, and not afterwards.

A defendant who resides or carries on business within the above-named district must enter appearance at the office of the registrar of that district, (*Insert address of office*).

A defendant who neither resides nor carries on business within the said district may enter appearance either at the office of the said registrar or at the Central Office, Royal Courts of Justice, London.

(*b*) See R. S. C. Ord. II. 5 ; App. A., Part I., No. 7.

The plaintiff's claim is [*as in* Form 196).
This writ was issued by (*&c.: as in* Form 196).
N.B.—*The address for service must be within the district.*
This writ [*or*, Notice of this writ] was served (*&c.: as in* Form 196).
N.B.—This writ is to be used (*&c.: as in* Form 200).

203.

Specially indorsed writ from district registry for service out of the jurisdiction (*c*).

(*Heading as in* Form 196.)

Victoria (*&c.*: *as in* Form 196).

To C. D., of ——, in the —— of ——

We command you, that within (*Insert number of days directed by Court or Judge*) days after service of this writ [*or, if notice of the writ is to be served, say:* notice of this writ] on you, inclusive of the day of such service, you cause an appearance to be entered for you in an action at the suit of A. B. And take notice, that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

Witness (*&c.: as in* Form 196).

N.B.—This writ [*or*, Notice of this writ] is to be served within twelve calendar months from the date thereof, or, if renewed, within six calendar months from the date of the last renewal, including the day of such date, and not afterwards.

A defendant who resides or carries on business within the above-named district must enter appearance at the office of the registrar of that district, (*Insert address of office*).

A defendant who neither resides nor carries on business within the said district may enter appearance either at the office of the said registrar or at the Central Office, Royal Courts of Justice, London.

Statement of Claim:

The plaintiff's claim is (*see* Forms 315—327).

Particulars:—

Place of trial —— (*See* Forms 315—327).

(Signed) ——.

and £—— [*or*, such sum as may be allowed on taxation] for costs. If the amount claimed be paid to the plaintiff or his solicitor or agent within (*Insert number of days limited for appearance*) days from service hereof [*or*, of notice hereof], further proceedings will be stayed.

This writ was issued by (*&c.: as in* Form 196).

N.B.—*The address for service must be within the district.*

This writ [*or*, Notice of this writ] was served (*&c.: as in* Form 196).

N.B.—This writ is to be used (*&c.: as in* Form 200).

(*c*) See R. S. C. Ord. II., 5; App. A., Part. I., No. 8.

(2.) *Descriptions of Official and Corporate Bodies and Persons in the Writ of Summons.*

204. Queen's attorney-general without a relator (*a*).

Her Majesty's Attorney-General.

---

204 a. Same with a relator (*b*).

Her Majesty's Attorney-General, at and by the relation of C. D., of (*residence and addition*).

---

204 b. Same with a corporation aggregate as relator and plaintiff (*c*).

Her Majesty's Attorney-General, at and by the relation of the Conservators of the River C., in the county of C., by C. F., of (*residence and addition*), their clerk; and the Conservators of the River C., in the county of C., by the said C. F., their clerk, plaintiffs.

---

204 c. Same on behalf of a lunatic (*d*).

Her Majesty's Attorney-General, on behalf of C. D., of (*residence*), a lunatic, at and by the relation of E. F., of (*residence and addition*), and the said C. D.

---

204 d. Attorney-general of Prince of Wales (*e*).

The Attorney-General to His Royal Highness, Albert Edward, Prince of Wales and Duke of Cornwall.

---

204 e. Peer of the realm.

The Most Noble A., Duke of B. [*or*, the Most Honourable C., Marquess of D.—*or*, the Right Honourable E., Earl of F.—*or*, the Right Honourable G., Viscount H.—*or*, the Right Honourable J. Baron K.].

---

204 f. Courtesy title.

The Honourable A. B., commonly called Lord A. B.

---

204 g. Government of foreign state (*f*).

The United States of America.

---

204 h. Treasury solicitor (*g*).

The solicitor for the affairs of Her Majesty's Treasury.

(*a*) See Dan. Pr. 54, 55, 62, 65.
(*b*) *Ibid.*, 63—70.
(*c*) *Ibid.*, 66.
(*d*) See Dan. Pr. 57, 65.
(*e*) *Ibid.*
(*f*) *Ibid.*, 72, note (*h*).
(*g*) 39 & 40 Vict. c. 18.

204 i.
Corporation aggregate (*h*).

The Mayor, Commonalty, and Citizens of the City of London [*or*, The Mayor, Aldermen, and Burgesses of the Borough of B——].

---

204 j.
Bank of England (*i*).

The Governor and Company of the Bank of England.

---

204 k.
Public officer of a banking company (*j*).

A. B., one of the registered public officers of the —— Company [*or*, public officer of the —— Bank].

---

204 l.
Registered public officer of banking company established by letters-patent (*k*).

A. B., one of the registered public officers of the —— Company, appointed to sue or be sued on behalf of the said Company.

---

204 m.
Joint stock company limited (*l*).

The East Pant Du United Lead Mining Company, Limited.

---

204 n.
Official liquidator (*m*).

A. B., the official liquidator of the (*Name of Company*), Limited, in liquidation.

---

204 o.
Plaintiff suing on behalf of creditors (*n*).

A. B., of (*residence and addition*), on behalf of himself and all other the creditors of C. D., late of (*residence and addition*), deceased.

(*h*) See Dan. Pr. 73—75.

(*i*) See 5 Will. & M. c. 20.

(*j*) See 7 Geo. IV. c. 46, s. 9; 27 & 28 Vict. c. 22; R. S. C. App. A., Part III., Sect. VII.

(*k*) See Dan. Pr. 75, 76; Chitty's Forms, 519; 7 Will. IV. & 1 Vict. c. 70.

(*l*) See Dan. Pr. 76—78; 25 & 26 Vict. c. 89; 30 & 31 Vict. c. 131; 40 & 41 Vict. c. 26; 42 & 43 Vict. c. 76; 43 Vict. c. 19.

(*m*) As to suits by liquidators, see Dan. Pr. 77, note (*s*); 25 & 26 Vict. c. 89, ss. 87, 95, 133 (7), 151, 195, 202. By s. 95, the official liquidator is empowered to bring or defend any action in the name and on behalf of the company. In such case the name of the company alone, and not that of the liquidator, should be inserted in the proceedings; Chitty's Forms, 527.

(*n*) See Dan. Pr. 201, 229, 230.

204 p. Plaintiff suing on behalf of debenture holders (*o*).

A. B., of, *&c.*, on behalf of himself and all other the holders of debentures [*or*, of the A. class of debentures] issued by the —— Company, Limited.

---

204 q. Plaintiff suing on behalf of shareholders (*p*).

A. B , of, *&c.*, on behalf of himself and all other the shareholders of the —— Company, Limited.

---

204 r. Trustee of a bankrupt's property (*q*).

The Trustee of the property of A. B., a bankrupt.

---

204 s. Official receiver (*r*).

The Official Receiver.

---

204 t. Local board (*s*).

The Wimbledon Local Board.

---

204 u. Rural sanitary authority (*t*).

The —— Rural Sanitary Authority.

---

204 v. Urban sanitary authority (*u*).

The —— Urban Sanitary Authority.

---

204 w. School board (*v*).

The School Board for London (*v*).

(*o*) Dan. Pr. 1397, 1398.
(*p*) *Ibid.*, 199—201, 231—234.
(*q*) The Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 83 ; see Dan. Pr. 101—104.
(*r*) The Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 66.
(*s*) See 38 & 39 Vict. c. 55, s. 7 ; Chitty's Forms, 529, 530.
(*t*) See 35 & 36 Vict. c. 79, ss. 5, 9.
(*u*) *Ibid.*, ss. 4, 9.
(*v*) See 33 & 34 Vict. c. 75, ss. 37—39.

204 x. Burial board (*w*).

The Burial Board for the Parish of ——, in the County of ——

204 y. Registered friendly society (*x*).

A. B., trustee [*or*, officer ; *describing him by his title*] of the —— Society.

204 z. Registered building society (*y*).

The London Provident Building Society.

204 aa. Building society not registered (*z*).

A. B., of, *&c.*, and C. D., of, *&c.*, trustees of the —— Building Society.

204 bb. Charitable Trusts Acts (*a*). (1) Official trustee of lands (*b*).

The Official Trustee of Charity Lands.

(2) Official trustees of funds (*c*).

The Official Trustees of Charitable Funds.

204 cc. Infant by next friend (*d*).

A. B., an infant, by C. D., of (*residence and addition*), his next friend.

204 dd. Lunatic by committee (*e*).

A. B., of (*residence and addition*), committee of the estate of C. D., a person of unsound mind, so found by inquisition ; and the said C. D., by the said A. B., his committee.

(*w*) See 15 & 16 Vict. c. 85, s. 24 ; 16 & 17 Vict. c. 134.
(*x*) 38 & 39 Vict. c. 60, s. 21 ; Chitty's Forms, 530.
(*y*) See 37 & 38 Vict. c. 42, s. 9 ; Chitty's Forms, 531.
(*z*) See 6 & 7 Will. IV. c. 32, s. 4 ; Chitty's Forms, 531.
(*a*) As to proceedings under the Charitable Trusts Acts, 1853 to 1869, see Dan. Pr. 2047—2060.
(*b*) See 16 & 17 Vict. c. 137, s. 47 ; 18 & 19 Vict. c. 124, s. 15 ; Dan. Pr. 2050—2051.
(*c*) See 16 & 17 Vict. c. 137, s. 51 ; 18 & 19 Vict. c. 124, ss. 12, 18 ; 23 & 24 Vict. c. 136, s. 12 ; Dan. Pr. 2052.
(*d*) As to actions by infants, see Dan. Pr. 104, *et seq.*
(*e*) See Dan. Pr. 117.

204 ee.

A. B., a person of unsound mind not so found [*or*, a person of weak mind], by C. D., of (*residence and addition*), his next friend.

Person of unsound or weak mind, not found by inquisition.

(3.) *The Indorsements on the Writ of Summons* (*f*).

(*f*) *Indorsement of Claim.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
The indorsement must be made before issue of the writ	III. 1.
The precise ground of complaint or precise remedy sought need not be stated	,, 2.
The indorsement is to be in the prescribed form (App. A., Pt. III. s. 7)	,, 3.
Plaintiff or defendant in representative capacity.—The indorsement must show the representative capacity of any party suing or being sued in such capacity	,, 4.
Special indorsement.—In certain specified cases (as to which see Forms 315—327) the writ may be *specially* indorsed with a statement of plaintiff's claim. Such special indorsement must be in the prescribed form (App. C., s. 4)	,, 6.
Where writ is specially indorsed as above such indorsement will be deemed the statement of claim	XX. 1 (*a*).
Indorsement in case of liquidated demand.—Where writ is indorsed for a debt or liquidated demand, the indorsement must state the amount claimed for debt and costs, with a notice that on payment of such amount within *four days* after service—or in case of a writ not for service within the jurisdiction within the time allowed for appearance—proceedings will be stayed. Such statement must be in the prescribed form (App. A., Pt. III. s. 3). The defendant may, notwithstanding payment, have the costs taxed	III. 7.
Indorsement of claim for an account.—Where plaintiff in the first instance desires to have an account taken, the writ must be indorsed with claim for such account	,, 8.

A. *Indorsement of Claim made, or of the Relief or Remedy required* (*ff*).

(*a*.) *In Matters assigned by the Supreme Court of Judicature Act*, 1873, *s.* 34 *to the Chancery Division* (*g*).

205.

The plaintiff's claim is as a creditor of X. Y., of ——, deceased, to have the [real and] personal estate of the said X. Y. administered. The defendant C. D. is sued as the administrator [*or*, as the executor] of the

Claim by creditor to administer estate (*h*).

(*ff*) As to this indorsement, see R. S. C. Ord. II. 1 ; *Ibid.*, III. 1, 2, 3 ; App. A., Part III.

(*g*) See R. S. C. App. A., Part III., Sect. I.

(*h*) Where an administration of the real estate is sought, the creditor should sue

said X. Y. [and the defendants E. F. and G. H. as his co-heirs-at-law ; *or*, as the devisees of his real estate].

206.
Claim by legatee to administer estate.

The plaintiff's claim is as a legatee under the will dated the —— day of ——, 188—, of X. Y. deceased, to have the [real and] personal estate of the said X. Y. administered. The defendant C. D. is sued as the executor of the said X. Y. [and the defendants E. F. and G. H. as his devisees].

207.
Partnership.

The plaintiff's claim is to have an account taken of the partnership dealings between the plaintiff and defendant [under articles of partnership dated the —— day of ——, 18—], and to have the affairs of the partnership wound up.

208.
By mortgagee for foreclosure or sale.

The plaintiff's claim is to have an account taken of what is due to him for principal, interest, and costs on a mortgage dated the —— day of ——, 18—, made between (*State parties*) [*or*, by deposit of title deeds], and that the mortgage may be enforced by foreclosure or sale.

209.
By mortgagor for redemption.

The plaintiff's claim is to have an account taken of what, if anything, is due on a mortgage dated the —— day of ——, 18—, and made between (*parties*), and to redeem the property comprised therein.

210.
Raising portions.

The plaintiff's claim is that the sum of £——, which by an indenture of settlement dated the —— day of ——, 18—, was provided for the portions of the younger children of A. B., may be raised.

211.
Execution of trusts.

The plaintiff's claim is to have the trusts of an indenture dated the —— day of ——, 18—, and made between (*parties*), carried into execution.

---

on behalf of himself and all other creditors of the deceased: Dan. Pr. 230, and note (*j*) ; *Worraker* v. *Pryor*, 2 Ch. D. 109 ; *Re Royle*, 5 Ch. D. 540 ; *Re Vincent*, W. N. (1877), 249 ; *Richardson* v. *Leake*, W. N. (1879), 181.

212. Cancellation or rectification.

The plaintiff's claim is to have a deed dated the —— day of ——, 18—, and made between (*parties*), set aside or rectified.

213. Specific performance.

The plaintiff's claim is for specific performance of an agreement dated the —— day of ——, 18—, for the sale by the plaintiff to the defendant of certain [freehold] hereditaments at ——.

(*b.*) *Money claims where no Special Indorsement under Order III., Rule 6 (i).*

214. Goods sold.

The plaintiff's claim is £——, for the price of goods sold (*j*).

215. Money lent.

The plaintiff's claim is £—— for money lent [and interest].

216. Several demands.

The plaintiff's claim is £——: whereof £—— is for the price of goods sold, and £—— for money lent, and £—— for interest.

217. Rent.

The plaintiff's claim is £—— for arrears of rent.

218. Salary, &c.

The plaintiff's claim is £—— for arrears of salary as a clerk [*or as the case may be*].

219. Interest.

The plaintiff's claim is £—— for interest upon money lent.

(*i*) See R. S. C. App. A., Part III., Sect. II. For further forms under this head, see Chitty's Forms, 66—70.

(*j*) This form shall suffice, whether the claim be in respect of goods sold and delivered, or of goods bargained and sold: Note to official form.

220. General average. The plaintiff's claim is £—— for a general average contribution.

221. Freight, &c. The plaintiff's claim is £—— for freight and demurrage.
The plaintiff's claim is £—— for lighterage.

222. Tolls. The plaintiff's claim is £—— for market tolls and stallage.

223. Penalties. The plaintiff's claim is £—— for penalties under the Statute [. . . .]

224. Banker's balance. The plaintiff's claim is £—— for money deposited with the defendant as a banker.

225. Fees as solicitor. The plaintiff's claim is £—— for fees for work done [and £—— money expended] as a solicitor.

226. Commission. The plaintiff's claim is £—— for commission earned as (*State character; as:* auctioneer, cotton broker, *&c.*).

227. Medical attendance, &c. The plaintiff's claim is £—— for medical attendances.

228. Return of premium. The plaintiff's claim is £—— for a return of premiums paid upon policies of insurance.

229. Warehouse rent. The plaintiff's claim is £—— for the warehousing of goods.

230. Carriage of goods. The plaintiff's claim is £—— for the carriage of goods by railway.

231. Use and occupation of houses.

The plaintiff's claim is £—— for the use and occupation of a house.

---

232. Hire of goods.

The plaintiff's claim is £—— for the hire of [furniture].

---

233. Work done.

The plaintiff's claim is £—— for work done as a surveyor.

---

234. Board and lodging.

The plaintiff's claim is £—— for board and lodging.

---

235. Schooling.

The plaintiff's claim is £—— for the board, lodging, and tuition of X. Y.

---

236. Money received

The plaintiff's claim is £—— for money received by the defendant as solicitor [*or*, factor ; *or*, collector ; *or*, &c.] of the plaintiff.

---

237. Fees of office.

The plaintiff's claim is £—— for fees received by the defendant under colour of the office of ——.

---

238. Money overpaid.

The plaintiff's claim is £—— for a return of money overcharged for the carriage of goods by railway.

The plaintiff's claim is £—— for a return of fees overcharged by the defendant as ——.

---

239. Return of money by stakeholder.

The plaintiff's claim is £—— for a return of money deposited with the defendant as stakeholder.

---

240. Money won, from stakeholder.

The plaintiff's claim is £—— for money entrusted to the defendant as stakeholder, and payable to plaintiff.

241.
Money entrusted to agent.

The plaintiff's claim is £—— for a return of money entrusted to the defendant as agent of the plaintiff.

242.
Money obtained by fraud.

The plaintiff's claim is £—— for a return of money obtained from the plaintiff by fraud.

243.
Money paid by mistake.

The plaintiff's claim is £—— for a return of money paid to the defendant by mistake.

244.
Money paid for consideration which has failed.

The plaintiff's claim is £—— for a return of money paid to the defendant for [work to be done, left undone ; *or*, a bill to be taken up, not taken up ; *or*, &c.].

The plaintiff's claim is £—— for a return of money paid as a deposit upon shares to be allotted.

245.
Money paid by surety for defendant.

The plaintiff's claim is £—— for money paid for the defendant as his surety.

246.
Rent paid.

The plaintiff's claim is £—— for money paid for rent due by the defendant.

247.
Money paid on accommodation bill.

The plaintiff's claim is £—— upon a bill of exchange accepted [*or*, indorsed] for the defendant's accommodation.

248.
Contribution by surety.

The plaintiff's claim is £—— for a contribution in respect of money paid by the plaintiff as surety.

249.
By co-debtor.

The plaintiff's claim is £—— for a contribution in respect of a joint debt of the plaintiff and the defendant paid by the plaintiff.

250.
Money paid for calls.

The plaintiff's claim is £—— for money paid for calls upon shares, against which the defendant was bound to indemnify the plaintiff.

---

251. Money payable under award.

The plaintiff's claim is £—— for money payable under an award.

---

252. Life policy.

The plaintiff's claim is £—— upon a policy of insurance upon the life of *X.Y.*, deceased.

---

253. Money bond.

The plaintiff's claim is £—— upon a bond to secure a payment of £1,000, and interest.

---

254. Foreign judgment.

The plaintiff's claim is £—— upon a judgment of the —— Court, in the Empire of Russia.

---

255. Bills of exchange, &c.

The plaintiff's claim is £—— upon a cheque drawn by the defendant.

The plaintiff's claim is £—— upon a bill of exchange accepted [*or*, drawn, *or*, indorsed] by the defendant.

The plaintiff's claim is £—— upon a promissory note made [*or*, indorsed] by the defendant.

The plaintiff's claim is £—— against the defendant *A.B.* as acceptor, and against the defendant *C. D.* as drawer [*or*, indorser] of a bill of exchange.

---

256. Surety.

The plaintiff's claim is £—— against the defendant as surety for the price of goods sold.

The plaintiff's claim is £—— against the defendant *A. B.* as principal, and against the defendant *C. D.* as surety, for the price of goods sold [*or*, arrears of rent, *or*, for money lent, *or*, for money received by the defendant *A. B.* as traveller for the plaintiffs, *or*, &c.].

---

257. Del credere agent. &c.

The plaintiff's claim is £—— against the defendant as a *del credere* agent for the price of goods sold [*or*, as losses under a policy].

---

258. Calls.

The plaintiff's claim is £—— for calls upon shares.

---

259. Waygoing crops, &c.

The plaintiff's claim is £—— for crops, tillage, manure [*or as the case may be*], left by the defendant as outgoing tenant of a farm.

(*c.*) *Indorsement for costs to be added in the above cases* (*k*).

260.

Indorsement of amount of costs, &c.

Add to the forms in the several cases mentioned in the last Section:

And £—— for costs; and if the amount claimed be paid to the plaintiff or his solicitor within four days [*or, if the writ is to be served out of the jurisdiction, or notice in lieu of service allowed, insert the time for appearances limited by the rules*] from the service hereof, further proceedings will be stayed.

(*d.*) *In Actions to recover Damages or Unliquidated Demands or to recover Property* (*l*).

261.

Account.

The plaintiffs claim that an account be taken of (*say what*).

262.

Agent, &c.

The plaintiff's claim is for damages for breach of a contract to employ the plaintiff as traveller.

The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller [and £—— for arrears of wages].

The plaintiff's claim is for damages for the defendant's wrongfully quitting the plaintiff's employment as manager.

The plaintiff's claim is for damages for breach of duty as factor [*or*, &c.], of the plaintiff [and £—— for money received as factor, *&c.*].

263.

Apprentices.

The plaintiff's claim is for damages for breach of the terms of a deed of apprenticeship of X. *Y.* to the defendant [*or*, plaintiff].

264.

Arbitration.

The plaintiff's claim is for damages for non-compliance with the award of *X. Y.*

265.

Assault.

The plaintiff's claim is for damages for assault and false imprisonment [and for malicious prosecution].

266.

By husband and wife.

The plaintiff's claim is for damages for assault and false imprisonment of the plaintiff *C. D.*

(*k*) R. S. C. Ord. III. 7; App. A., Part III., Sect. III.

(*l*) See R. S. C. App. A., Part III., Sect. IV.

267. Solicitor.

The plaintiff's claim is for damages for injury by the defendant's negligence as solicitor of the plaintiff.

---

268. Bailment.

The plaintiff's claim is for damages for negligence in the custody of goods [and for wrongfully detaining the same].

---

269. Pledge.

The plaintiff's claim is for damages for negligence in the keeping of goods pawned [and for wrongfully detaining the same].

---

270. Hire.

The plaintiff's claim is for damages for negligence in the custody of furniture lent on hire [*or*, carriage lent] [and for wrongfully, *&c.*].

---

271. Banker.

The plaintiff's claim is for damages for wrongfully neglecting [*or*, refusing] to pay the plaintiff's cheque.

---

272. Bill.

The plaintiff's claim is for damages for breach of a contract to accept the plaintiff's drafts.

---

273. Bond.

The plaintiff's claim is upon a bond conditioned not to carry on the trade of a ——.

---

274. Carrier.

The plaintiff's claim is for damages for refusing to carry the plaintiff's goods by railway.

The plaintiff's claim is for damages for refusing to carry the plaintiff by railway.

The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of coals by railway.

The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of machinery by sea.

275.
Charter-party.

The plaintiff's claim is for damages for breach of charter-party of ship [*Mary*].

276.
Claim for return of goods; damages.

The plaintiff's claim is for return of household furniture [*or*, &c.], or their value, and for damages for detaining the same.

277.
Damages for depriving of goods.

The plaintiff's claim is for wrongfully depriving plaintiff of goods, household furniture, &c.

278.
Defamation.

The plaintiff's claim is for damages for libel.

The plaintiff's claim is for damages for slander.

279.
Distress. Replevin.

The plaintiff's claim is in replevin for goods wrongfully distrained.

280.
Wrongful distress.

The plaintiff's claim is for damages for improperly distraining (*m*).

281.
Ejectment.

The plaintiff's claim is to recover possession of a house, No. ——, in —— street [*or*, of a farm called Blackacre], situate in the parish of ——, in the county of ——.

282.
To establish title and recover rents.

The plaintiff's claim is to establish his title to [*Here describe property*], and to recover the rents thereof (*n*).

---

282 a.
Dower.

The plaintiff's claim is for dower.

283.
Fishery.

The plaintiff's claim is for damages for infringement of the plaintiff's right of fishing.

(*m*) This form shall be sufficient, whether the distress complained of be wrongful or excessive, or irregular, and whether the claim be for damages only, or for double value: Note to official form.

(*n*) Forms 281 and 282 may be combined.

284. Fraud.

The plaintiff's claim is for damages for fraudulent misrepresentation on the sale of a house [*or*, a business, *or*, shares, *or*, *&c.*].

The plaintiff's claim is for damages for fraudulent misrepresentation of the credit of *A. B.*

285. Guarantee.

The plaintiff's claim is for damages for breach of a contract of guarantee for *A. B.*

The plaintiff's claim is for damages for breach of a contract to indemnify the plaintiff as the defendant's agent to distrain.

286. Insurance.

The plaintiff's claim is for a loss under a policy upon the ship "Royal Charter," and freight or cargo [*or*, for return of premiums] (*o*).

287. Fire insurance.

The plaintiff's claim is for a loss under a policy of fire insurance upon house and furniture.

The plaintiff's claim is for damages for breach of a contract to insure a house.

288. Landlord and tenant.

The plaintiff's claim is for damages for breach of contract to keep a house in repair.

The plaintiff's claim is for damages for breaches of covenants contained in a lease of a farm.

289. Medical man.

The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.

290 Mischievous animal.

The plaintiff's claim is for damages for injury by the defendant's dog.

291. Negligence.

The plaintiff's claim is for damages for injury to the plaintiff by the negligent driving of the defendant or his servants.

The plaintiff's claim is for damages for injury to the plaintiff while

(*o*) This form shall be sufficient whether the loss claimed be total or partial: Note to official form.

a passenger on the defendants' railway by the negligence of the defendants' servants.

The plaintiffs' claim is for damages for injury to the plaintiff at the defendants' railway station, from the defective condition of the station.

292.

Lord Campbell's Act (9 & 10 Vict. c. 93).

The plaintiff's claim is as executor of A. B. deceased, for damages for the death of the said A. B., from injuries received while a passenger on the defendants' railway, by the negligence of the defendants' servants.

293.

Promise of marriage.

The plaintiff's claim is for damages for breach of promise of marriage.

293 a.

Quare impedit.

The plaintiff's claim is *in quare impedit* for ——.

294.

Seduction.

The plaintiff's claim is for damages for the seduction of the plaintiff's daughter.

295.

Sale of goods.

The plaintiff's claim is for damages for breach of contract to accept and pay for goods.

The plaintiff's claim is for damages for non-delivery [*or*, short delivery, *or*, defective quality, *or*, *other breach of contract of sale*], of cotton [*or*, *&c.*].

The plaintiff's claim is for damages for breach of warranty of a horse.

296.

Sale of land.

The plaintiff's claim is for damages for breach of a contract to sell [*or*, purchase] land.

The plaintiff's claim is for damages for breach of a contract to let [*or*, take] a house.

The plaintiff's claim is for damages for breach of a contract to sell [*or*, purchase] the lease, with goodwill, fixtures, and stock in trade of a public-house.

The plaintiff's claim is for damages for breach of covenant for title [*or*, for quiet enjoyment, *or*, *&c.*] in a conveyance of land.

297.

Trespass to land.

The plaintiff's claim is for damages for wrongfully entering the plaintiff's land and drawing water from his well [*or*, cutting his grass ; *or*

pulling down his timber; *or*, pulling down his fences; *or*, removing his gate; *or*, using his road or path; *or*, crossing his field; *or*, depositing sand there; *or*, carrying away gravel from thence; *or*, carrying away stones from his river].

298. Support.

The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [*or*, house; *or*, mine].

299. Way.

The plaintiff's claim is for damages for wrongfully obstructing a way [public highway, *or*, a private way].

300. Watercourse, &c.

The plaintiff's claim is for damages for wrongfully diverting [*or*, obstructing; *or*, polluting; *or*, diverting water from] a watercourse.

The plaintiff's claim is for damages for wrongfully discharging water upon the plaintiff's land [*or*, into the plaintiff's mine].

The plaintiff's claim is for damages for wrongfully obstructing the plaintiff's use of a well.

301. Pasture.

The plaintiff's claim is for damages for the infringement of the plaintiff's right of pasture (*p*).

302. Light.

The plaintiff's claim is for damages for obstructing the access of light to the plaintiff's house.

303. Sporting.

The plaintiff's claim is for damages for the infringement of the plaintiff's right of sporting.

304. Patent.

The plaintiff's claim is for damages for the infringement of the plaintiff's patent.

305. Copyright.

The plaintiff's claim is for damages for the infringement of the plaintiff's copyright.

(*p*) This form shall be sufficient whatever the nature of the right to pasture be: Note to official form.

306. Trade mark.

The plaintiff's claim is for damages for wrongfully using [*or*, imitating] the plaintiff's trade mark.

---

307. Work.

The plaintiff's claim is for damages for breach of a contract to build a ship [*or*, repair a house, *&c.*].

The plaintiff's claim is for damages for breach of a contract to employ the plaintiff to build a ship, *&c.*

---

308. Nuisance.

The plaintiff's claim is for damages to his house, trees, crops, &c., caused by noxious vapours from the defendant's factory [*or*, *&c.*].

The plaintiff's claim is for damages from nuisance by noise from the defendant's works [*or*, stables; *or*, *&c.*].

---

309. Innkeeper.

The plaintiff's claim is for damages for loss of the plaintiff's goods in the defendant's inn.

---

310. Mandamus.

Add to Indorsement:

And for a mandamus commanding the defendant to ——.

---

311. Injunction.

Add to Indorsement:

And for an injunction to restrain the defendant from ——.

---

312. Mesne profits.

Add to Indorsement where claim is to land, or to establish title, or both:

And for mesne profits.

---

313. Arrears of rent.

And for an account of rents or arrears of rent.

---

314. Breach of covenant.

And for breach of covenant for (repairs).

(*e.*) *Indorsement of the Particulars of the Plaintiff's Claim where the Writ is specially indorsed under R. S. C., Ord. III.* 6. (*ll*).

315. Goods sold and delivered (*m*).

The plaintiff's claim is for the price of goods sold. The following are the particulars :—

	£	*s.*	*d.*
1881—31st December.—			
Balance of account for butcher's meat to this date	35	10	0
1882—1st January to 31st March.—			
Butcher's meat	74	5	0
	109	15	0
1882—1st February.—Paid . . .	45	0	0
Balance due	£64	15	0

Place of trial :—(London).

(Signed) (*n*) ——.

(*ll*) See R. S. C. Ord. III., r. 6 ; App. C., Sect. IV. The following are the cases in which the writ can be specially indorsed under this rule, viz., where the plaintiff seeks only to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising :—

A. On a contract, express or implied (as, *e.g.*, upon a bill of exchange, promissory note, or cheque, or other simple contract debt).

B. On a bond or contract under seal for payment of a liquidated amount of money.

C. On a statute where the sum sought to be recovered is a fixed sum of money, or in the nature of a debt, other than a penalty.

D. On a guaranty, whether under seal or not, where the claim against the principal is in respect of a debt or liquidated demand only.

E. On a trust.

F. In actions for the recovery of land, with or without a claim for rent or mesne profits, by a landlord against a tenant where term has expired, or has been duly determined by notice to quit, or against persons claiming under such tenant.

A specially indorsed writ now constitutes a pleading : see R. S. C. Ord. XX. 1. For cases under corresponding rule of R. S. C., 1875, see Wilson, 178 ; Ann. Pr. 112.

(*m*) See R. S. C. App. C., Sect. IV., No. 1.

(*n*) In the official forms the word "Delivered" is added at the foot of each example in this section. This is apparently because of the provisions of Ord. XX. 1, under which the special indorsement is to be deemed a statement of claim, and of Ord. XIX. 11, which requires every pleading to be marked with the date of its delivery. It is difficult, however, to see how this can apply to the case of an indorsement on a writ. The date of delivery cannot be foretold when the writ is issued ; and the writ cannot be altered before service. It is to be observed also, that in the official forms of specially indorsed writs, the word "delivered" is omitted, though the words "Place of Trial," and "Signed" appear there as well as in the Forms of Indorsement.

316.

Money had and received (*o*).

The plaintiff's claim is for money received by the defendant for the use of the plaintiff.

Particulars :—

1882—1st January.—	£	s.	d.
To amount of rents of No. 5, Smith Street, collected by the defendant .	72	10	0
To deposit on intended sale of Eva Villa	100	0	0
Amount due . . .	£172	10	0

Place of trial :—(London).

(Signed) ——.

317.

Payee against maker of a promissory note (*p*).

The plaintiff's claim is against the defendant, as maker of a promissory note for £250, dated 1st January, 1882, payable four months after date.

Particulars :—

	£
Principal	250
Interest	10
Amount due . . .	£260

Place of trial :—(Lancashire, West Derby division).

(Signed) ——.

318.

Indorsee against acceptor of a bill of exchange (*q*).

The plaintiff's claim is against the defendant, as acceptor of a bill of exchange for £400, dated 1st January, 1882, drawn by A. B., payable three months after date to the order of E. F., and indorsed to the plaintiff.

Particulars :—

	£
Principal due	400
Interest	16
Amount due . . .	£416

Place of trial, ——.

(Signed) ——.

319.

Indorsee against acceptor and drawer of a bill of exchange severally (*r*).

The plaintiff's claim is against the defendant A. B., as acceptor, and against the defendant C. D. as drawer, of a bill of exchange for £500, dated 1st January, 1882, payable three months after date, and indorsed

(*o*) R. S. C. App. C., Sect. IV., No. 2.
(*p*) *Ibid.*, No. 3.
(*q*) *Ibid.*, No. 4.
(*r*) *Ibid.*, No. 5.

by the defendant C. D. to the plaintiff: of the dishonour of which on presentation the defendant C. D. had notice.

Particulars :—	£
Principal	500
Interest	20
Amount due	£520

Place of trial :—(City of Bristol).

(Signed) ——.

320.

Payee against drawer of a bill of exchange excusing notice of dishonour (*s*).

The plaintiff's claim is against the defendant as drawer of a bill of exchange for £600 dated 1st March, 1882, drawn upon A. B., payable to plaintiff three months after date, which was duly presented for payment and dishonoured, but A. B. had no effects of the defendant, nor was there any consideration for the payment of the said bill by the said A. B.

Particulars (*as in* Form 319).

Place of trial, ——.

(Signed ——.

321.

Obligee against obligor of a money bond (*t*).

The plaintiff's claim is for principal and interest due upon the defendant's bond to the plaintiff, dated 1st January, 1873, conditioned for payment of £100 on the 26th December, 1873.

Particulars :—	£
Principal	50
Interest	2
Amount due	£52

Place of trial :—(Surrey).

(Signed) ——.

322.

Covenantee against covenantor on a covenant to pay money (*u*).

The plaintiff's claim is for principal and interest due under a covenant in a deed dated the 1st of January, 1882.

Particulars :—	£
Principal	100
Paid	20
Principal due	80
Interest	3
Amount due	83

Place of trial :—(London).

(Signed) ——.

(*s*) R. S. C. App. C., Sect. IV., No. 6.

(*t*) *Ibid.*, No. 7.

(*u*) *Ibid.*, No. 8.

323.

Against shareholder for allotment money and calls by a company under 25 & 26 Vict. c. 89 (*v*).

The plaintiffs' claim is for money in which the defendant, as a member of the —— Company, is indebted to the plaintiffs (being a company incorporated under the Companies Act, 1862) for allotment money of —— per share on —— shares in the Company allotted to the defendant, as such member, at his request, and for —— calls of £—— each upon —— shares in the Company of which the defendant is a holder: whereby an action has accrued to the plaintiffs.

Particulars:—

18	—Allotment of —— shares to the defendant at £—— per share	£
18	—(1st) call at £—— per share . .	£
	(2nd) call at £—— per share . .	£
	Amount due	£

Place of trial, ——.

(Signed) ——.

324.

On a guarantee for the price of goods: setting out the guarantee (*w*).

The plaintiff's claim is for the price of goods sold and delivered by the plaintiff to E. F. under the following guarantee:—

SIR, 2nd February, 1882.

In consideration of your supplying goods to E. F., I undertake to see you paid.

Yours, &c.,

To Mr. A. B. (plaintiff). C. D. (defendant).

Particulars:—

1882,	25 March, 55 tons of coal at 20*s.* . .	£55
	Amount due	£55

Place of trial: ——.

(Signed) ——.

325.

Creditor against principal debtor and his surety severally on a guarantee for goods sold (*x*).

The plaintiff's claim is against the defendant A. B. as principal, and against the defendant C. D. as surety, for the price of goods sold and delivered by the plaintiff to A. B. on the guarantee by C. D., dated the 2nd of February, 1882.

Particulars:—

		£	*s.*	*d.*
2nd February—	Goods	47	15	0
3rd March—	Goods	105	14	0
17th March—	Goods	14	12	0
5th April—	Goods	34	0	0
	Amount due . . .	£202	1	0

Place of trial:—(Surrey).

(Signed) ——.

(*v*) R. S. C. App. C., Sect. IV., No. 9.
(*w*) *Ibid.*, No. 10. (*x*) *Ibid.*, No. 11.

326.

Debt upon a trust (*y*).

The plaintiff's claim is against the defendants as trustees under the settlement upon the marriage of A. B. and X. Y., dated January 1st, 1870, whereby £10,000 invested on mortgage of land at Z. was vested in the defendants as trustees upon trust to pay the income thereof half-yearly to the plaintiff.

Particulars :—

1882, December 25th, half a year's income . . £200

Place of trial : ——.

(Signed) ——.

327.

Landlord against tenant whose term has expired, &c. (*z*).

The plaintiff is entitled to the possession of a farm and premises, called Church Farm, in the parish of St. James, in the county of Surrey, which was let by the plaintiff to the defendant for the term of three years from the 29th of September, 1879, which term has expired [*or*, as tenant from year to year from the 29th of September, 1875, which said tenancy was duly determined by notice to quit, expiring on the 29th of September, 1881].

The plaintiff claims possession, and £50 for mesne profits.

Place of trial :—(Surrey).

(Signed) ——.

(*f*.) *Indorsement of Claim for an Account under R. S. C., Ord. III.*, 8.

328.

Claim to have partnership account taken.

(*Same as* Form 207.)

329.

Claim to have executorship accounts taken.

The plaintiff's claim is to have the accounts taken of the defendant as executor [*or*, administrator] of A. B. deceased.

330.

Claim to have trust account taken.

The plaintiff's claim is to have the account taken of the defendant as trustee under the will of A. B. [*or*, under a deed dated the —— day of ——].

331.

Claim to have mortgage account taken.

(*Same as* Form 208 *or* 209.)

B. *Indorsement of Address of the Person issuing the Writ* (*a*).

(*a*) *Indorsement of Address.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
The address of the plaintiff, and of his solicitor, must be indorsed, and, where necessary, an address for service within three miles from principal entrance of Central Hall of the Royal Courts of Justice. If the solicitor is an agent only, he must add the name and place of business of his principal . . .	IV. 1.

(*y*) R. S. C. App. C., Sect. IV., No. 12.

(*z*) *Ibid.*, VII., No. 1.

	Order.
A plaintiff suing in person must indorse his place of residence and occupation, and, where necessary, an address for service .	IV. 2.
In case of writ issued from District Registry.—If writ issued by a solicitor he must indorse the address of the plaintiff, his own name and place of business and, where necessary, an address for service within the district: and where defendant does not reside within the district a further address for service within three miles of the Royal Courts of Justice. If he is an agent only, he must add the name and place of business of his principal	,, 3.
If writ issued by a plaintiff in person he must indorse his place of residence and occupation, and an address for service (where necessary) within the district; and, if the defendant does not reside within the district, a further address for service within three miles of the Royal Courts of Justice . . .	,, 3.

332.

Indorsement of address, &c., where writ issued by solicitor. [Dan. Pr. 321.]

This writ was issued by —— (*b*), of ——, in the —— of —— (*c*), whose address for service (*d*) is at ——, in the —— of —— ; agent for —— of —— in the —— of —— (*e*), solicitor for the plaintiff, whose address is at —— (*f*).

333.

Indorsement of address, &c., where writ issued by plaintiff in person. [Dan. Pr. 321.]

This writ was issued by the plaintiff in person, who resides (*g*) at ——, and is a —— (*h*), and whose address for service is at —— (*i*).

(C.) *Indorsement of the Character in which the Parties Sue or are Sued* (*j*).

334.

Executors, &c.

The plaintiff's claim is as executor [*or*, administrator] of C. D., deceased, for, *&c.*

The plaintiff's claim is against the defendant A. B., as executor [*or*, *&c.*] of C. D., deceased, for, *&c.*

The plaintiff's claim is against the defendant A. B., as executor of X. Y., deceased, for, *&c.*, and against the defendant C. D., in his personal capacity for, *&c.*

335.

Trustee in bankruptcy.

The plaintiff's claim is as trustee under the bankruptcy of A.B., for ——.

(*b*) Name or firm of plaintiff's solicitor: R. S. C. Ord. IV. 1, 3.
(*c*) Place of business of plaintiff's solicitor: R. S. C. Ord. IV. 1, 3.
(*d*) See R. S. C. Ord. IV. 1, 3.
(*e*) *Ibid.*
(*f*) *Ibid.* The address indorsed must be the place of "residence:" *Mee* v. *Denbigh*, 27 Sol. J. 617.
(*g*) See R. S. C. Ord. IV. 2, 3; and see Form 4, note (*n*).
(*h*) Here mention plaintiff's occupation: R. S. C. Ord. IV. 2, 3.
(*i*) See R. S. C. Ord. IV. 2, 3.
(*j*) See R. S. C. Ord. III. 4; App. A., Part III., Sect. 7.

336.

The plaintiff's claim is as [*or*, The plaintiff's claim is against the defendant as] trustee under the will of A. B. [*or*, under the settlement upon the marriage of A. B. and X. Y., his wife]. Trustee.

337.

The plaintiff's claim is as public officer of the —— Bank, for ——. Public officer.

The plaintiff's claim is against the defendant as public officer of the —— Bank, for ——.

The plaintiff's claim is against the defendant A. B., as principal, and against the defendant C. D., as public officer of the —— Bank, as surety for ——.

338.

The plaintiff's claim is against the defendant as heir-at-law of A. B., deceased. Heir and devisee.

The plaintiff's claim is against the defendant C. D., as heir-at-law, and against the defendant E. F., as devisee of lands under the will of A. B.

339

The plaintiff's claim is as well for the Queen as for himself, for ——. Qui tam action.

SECTION III.—ISSUE OF THE WRIT OF SUMMONS (*a*).

(*Dan. Pr.*, pp. 322—325, eccl.)

(*a*) *Issuing the Writ.—Summary of Material Provisions of R. S. C.* 1883.

Place of issue:—	ORDER.
(1) *District Registry.*	
Writ may be issued out of a District Registry by a plaintiff wherever resident	V. 1.
(2) *Central Office.*	
Every writ not issued out of a District Registry must be issued out of the Central Office . . .	,, 2.
Statement of place for appearance.—Where defendant neither resides nor carries on business within the district out of the registry whereof the writ issues, a statement must appear on the face of the writ that he has the option of appearing either at the Registry or at the Central Office	,, 3.
Where defendant resides or carries on business within the district, a statement must appear on the face of the writ that the appearance is to be entered at the Registry	,, 4.
Assignment of action.—Every action commenced in the Chancery Division is to be assigned to, and marked by the officer issuing the writ with the name of, one of the Judges of that Division to whom for the time being chambers are attached (to be ascertained in the manner used in the distribution of business amongst the conveyancing counsel of the Court) .	,, 9 (*a*).
Where a cause has been assigned to one of such Judges, every subsequent writ, &c., relating to the administration of the same trust or the winding up of the same company, or so connected therewith as to be conveniently dealt with by the same Judge, must, whenever practicable, be marked with the	

	Order.
name of such Judge. A certificate in such case must be given by the party or solicitor in the prescribed form (App. A. Pt. I. 19)	V. 9 (*e*).
Notice to the proper officer of assignment is sufficiently given by leaving with him a copy of the writ of summons . . .	,, 14.
Mode of issuing.—Every writ must be sealed by the proper officer, and will thereupon be deemed to be issued	,, 11.
The plaintiff or his solicitor, on presenting any writ for sealing, must leave with the officer a copy, signed by the solicitor, or by the plaintiff, if he sues in person	,, 12.
Filing and marking.—The officer receiving the copy must file it, and an entry of the filing must be made in the cause book: the action will be distinguished by the date of the year, a letter, and a number, and, when commenced in a District Registry, by the name of such Registry	,, 13.

340.

Practice rules as to issuing writs of summons, &c. (*b*).

(1.) *Generally.*

Copies of writs of summons should be signed with the name of the solicitor or solicitor's clerk suing them out, as under :—

C. D. and Co.

Or, A. B.,

for C. D. and Co.

The stamp is to be on the copy writ filed (*c*).

The signature to the statement of claim indorsed on the writ is not to be taken as a sufficient compliance with the rule (R. S. C. Ord. V. 12) requiring the (copy) writ to be signed.

In an information where there is no relator, the Attorney-General's signature on the writ is not required ; but where there is a relator (whether a person or body corporate) the original writ (not the copy filed) must be signed by the Attorney-General, and if any amendment be made, it must be authorized by his signature on the original writ or draft.

The assignment to a particular Judge of every cause or matter commenced in the Chancery Division (otherwise than by petition) shall be made before the issue of the writ of summons, or service of the notice of motion (*d*).

341.

Certificate of solicitor as to assignment of cause or matter (*e*).

(*Heading : as in writ, summons, or petition.*)

I, A. B., solicitor for the above-named C. D., hereby certify that the

(*b*) Rules of Practice Masters, 1880, 1881, 1882 ; Wilson, 844—852 ; Ann. Pr. 560—565 ; Additional Rules, March, 1884.

(*c*) On issuing a writ of summons a fee of 10*s.* is payable : by a stamp impressed thereon : Ord. as to S. C. Fees, 1884, Sched., No. 1 ; Ord. as to Fees, &c., July, 1884, p. 4.

(*d*) R. S. C. Ord. V. 9 (*a*) ; see note (*a*), *supra*.

(*e*) See R. S. C. Ord. V. 9 (*e*) ; App. A., Pt. I., 19 ; and see note (*a*), *supra*. As to the mode of indexing actions in the cause Book, see Rules of Practice Masters, 1880, 1881, 1882 ; Wilson, 845 ; Ann. Pr. 560. Parties are not allowed to see the cause Book unless by express leave obtained from a Master or an order by a Judge. All searches in the cause Books for writs of summons or otherwise are to be made

writ [*or*, summons, *or* petition] annexed hereto relates to the administration of the same trust [*or*, the winding up of the same company] as, or is so connected with, the cause or matter entitled (*insert title*), and assigned to the Hon. Mr. Justice ——, as to be conveniently dealt with by the same Judge.

A. B.

(2.) *Leave to Issue the Writ: when required* (*f*).

(*f*) *Leave to issue* a writ of summons is required:
(1) Where it is desired to join causes of action which cannot be so joined without leave.
(2) Where the writ is one for service out of the jurisdiction, or of which notice is to be given out of the jurisdiction.

342.

Motion paper for leave to join other claims with claim for recovery of land (*g*). [Dan. Pr. 324.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
In the matter of the Supreme Court of Judicature Acts, 1873 to 1884. [And

(*g*) *Joinder of Causes of Action.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Plaintiff may unite in same action several causes of action . See *Bagot* v. *Easton*, 7 Ch. D. 1. The distinct causes of action must be against the same defendant; *Burstall* v. *Beyfus*, 26 Ch. D. 35: 32 W. R. 418.	XVIII. 1.
Claims by plaintiffs jointly may be joined with claims by them or any of them separately against same defendant . .	,, 6.
No claim by trustee in bankruptcy can be joined with any claim by him in any other capacity without special leave . .	,, 3.
Claims by or against husband and wife may be joined with claims by or against either separately	,, 4.
Claims by or against an executor or administrator as such may be joined with claims by or against him personally, if arising with reference to the estate of which he is executor, &c.	,, 5.
No cause of action is to be joined, without special leave, with an action for recovery of land, except claims in respect of mesne profits, or arrears of rent, or double value in respect of the premises claimed, and damages for breach of any contract under which same held, or for any wrong or injury to the premises claimed	,, 2.
Remedy for misjoinder.—Defendant may apply for an order confining the action to such causes of action as may be conveniently disposed of together	,, 8.
The Court or a Judge may order causes of action to be excluded	,, 9.

by the clerks in the Central Office, and the result communicated to the party applying. Where a certificate is given (R. S. C. Ord. LXI. 21) as to the state of the proceedings, a fee of 5*s.* is payable: by a stamp impressed on or adhesive to the certificate: Ord. as to S. C. Fees, 1884, Sched. No. 44; Ord. as to Fees, &c.,

And in the matter of an intended action between A. B. plaintiff, and C. D. defendant.

To move on behalf of the plaintiff for leave to join with a claim for the recovery of land, a claim for (*Here describe the nature of the claim which it is desired to join in the action*) (*h*).

Section IV.—Concurrent Writs (*a*).

(*Dan. Pr.*, pp. 325—326, cccl.)

(*a*) *Concurrent Writs.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
A concurrent writ may be issued at any time during *twelve months* after issuing of original writ: it must be tested of the same day as the original writ: and be sealed "concurrent": it will only remain in force during pendency of original writ .	VI. 1.
A writ for service within the jurisdiction may be issued and marked as concurrent with one for service out of the jurisdiction, and *vice versâ*	,, 2.

343.

Motion paper for leave to issue writ for service, or whereof notice in lieu of service is to be given, out of the jurisdiction, as a concurrent writ with one for service within the jurisdiction (*b*).

[Dan. Pr. 326.]

Formal parts: see Form 36.

To move on behalf of the plaintiff, for leave to issue a concurrent writ of summons, and to serve same upon [*or*, to give notice of such writ in lieu of service thereof to] the defendant A. B., at ——, or elsewhere, in the (kingdom) of —— ; and that the time limited for the said defendant to appear to the writ may be —— days after service [*or*, notice] thereof.

An affidavit in support accompanies.

July, 1884, p. 7. A separate index is kept of writs in administration actions and of administration summonses; which index the public may search without fee: Rules of Practice Masters, *supra*.

(*h*) See R. S. C. XVIII. 2; *Dennis* v. *Crompton*, W. N. (1882), 121; *Compton* v. *Preston*, 21 Ch. D. 138: 30 W. R. 563 (the rule applies to counterclaims); *Kendrick* v. *Roberts*, W. N. (1882), 23: 30 W. R. 365; *Brandeth* v. *Shears*, W. N. (1883), 89; *Hunt* v. *Fensham*, 28 Sol. J. 253; *Harloch* v. *Ashberry*, 19 Ch. D. 539; Wilson, 245, 246; Ann. Pr. 225—227; 2 Seton, 1621. The application may also be made in Chambers without summons by leaving the unsealed writ and an office copy of the affidavit (if any). The directions are indorsed on the writ; and a copy of such directions must be written on the copy left for filing: Dan. Pr. 325, note (*z*).

(*b*) See R. S. C. Ord. VI. 2; and note (*a*), *supra*; and *Beddington* v. *Beddington*, 1 P. D. 426. For forms of writ for service, or whereof notice is to be given in lieu of service, out of the jurisdiction, see Forms 200—203. For form of affidavit in support of application to serve or give notice of the writ out of the jurisdiction, see Form 372. Upon suing out a concurrent writ a fee of 2*s*. 6*d*. is payable by a stamp impressed thereon. Ord. as to S. C. Fees, 1884, Sched. No. 2; Ord. as to Fees, &c., July, 1884, p. 4.

344. Summons for the like.

Formal parts: see Form 43.
on behalf of the plaintiff, that (*Continue as in* Form 343 *to the end*).

345. Affidavit in support.

[*See* Form 372.]

Section V.—Renewal of the Writ of Summons (*a*).

(*Dan. Pr.*, pp. 326—327, cccl.—cccli.)

(*a*) *Renewal of Writ of Summons.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Original writ in force for *twelve months*	VIII. 1.
Concurrent writ in force for same period as original writ . .	VI. 1.
May be renewed for *six months* from time to time, if Court or Judge satisfied that reasonable efforts have been made to serve defendant. The renewed writ must be sealed: and will after renewal prevent the Statute of Limitations running as from date of original writ	VIII. 1.
Production of the writ marked with the seal of the Court will be evidence of its renewal	,, 2.
Lost writ.—Where writ has been lost the Court or a Judge may order a copy to be sealed and served in lieu of the original	,, 3.

346. Motion paper for leave to renew writ of summons (*b*). [Dan. Pr. 327.]

Formal parts: see Form 36.
To move on behalf of the plaintiff for leave to renew the original [*or*, concurrent] writ of summons in this action.
A copy of the writ and an affidavit in support accompany.

347. Summons for the like (*b*). [Dan. Pr. 327.]

Formal parts: see Form 43.
on the part of the plaintiff, that he may be at liberty to renew the original [*or*, concurrent] writ of summons in this action.

348. Affidavit in support (*c*). [Dan. Pr. 327.]

Formal parts: see Form 6.
1. The original [*or*, concurrent] writ of summons in this action was issued on the —— day of ——, 188—.

(*b*) For form of order, see R. S. C. App. K., No. 20; 2 Seton, 1621, No. 1. Leave may also be obtained by *ex parte* application in Chambers without a summons; and this is the proper mode of making the application in the Chancery Division. The memorandum giving leave will be indorsed on the copy writ. A fee of 3*s.* is payable on such memorandum: by a stamp impressed or adhesive: Ord. as to S. C. Fees, 1884, Sched. No. 67; Ord. as to Fees, &c., July, 1884, p. 9.

(*c*) For the contents of this affidavit, see R. S. C. Ord. VIII. 1; and note (*a*), *supra*.

2. (*Show what efforts have been made to serve the defendant with the writ, or other reason for extending the time for service thereof.*)

3. (*Show means of knowledge.*)

349.

Memorandum for renewed writ of summons (*d*). [Dan. Pr. 327.]

(*Heading : as in* Form 196.)

Seal, in pursuance of order [*or*, fiat], dated the —— day of ——, 188—, a renewed writ of summons in this action indorsed as follows :—

(*Copy original writ and the indorsements.*)

Dated the —— day of ——, 188—.

Original writ issued —— day of ——, 188—.

Last renewal —— day of ——, 188—.

(*Name and address of solicitor or party issuing the writ, see* Form 37.)

350.

Summons for leave to use copy writ in lieu of the original, where same is lost (*e*). [Dan. Pr. 327, note (*h*), cccli.]

Formal parts : see Form 43.

on the part of the plaintiff, that a copy of the writ of summons issued in this action on the —— day of ——, 188—, may be sealed by the proper officer and served upon the defendant [*or*, may be sealed as a renewed writ] in lieu of the original writ ; such writ having been lost.

Section VI.—Amending the Writ of Summons (*a*).

(*Dan. Pr.*, pp. 327—331, cccli.)

(*a*) *Amendment of Writ.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Leave to amend.—Court or Judge may allow plaintiff to alter or amend his indorsement, at any stage of the proceedings, in such manner and on such terms as may be just . . .	XXVIII. 1.

(*d*) See R. S. C. Ord. VIII. 1 ; and App. A., Part I., No. 18 ; G. No. 20. Upon suing out a renewed writ, a fee of 2*s.* 6*d.* is payable : by a stamp impressed thereon : Ord. as to S. C. Fees, 1884, Sched. No. 2 ; Ord. as to Fees. &c., July, 1884, p. 4.

(*e*) See R. S. C. Ord. VIII. 3 ; and note (*a*), *supra*. This rule obviates the difficulty which arose in *Davies* v. *Garland*, 1 Q. B. D. 250. In support of the application an affidavit is required proving the loss of the original writ, and the correctness of the copy which it is purposed to use. When a copy writ is sealed in lieu of the original rule, no fee is taken. A note should be made on the face of the copy near the seal, showing that it is so sealed under the above rule pursuant to order, setting out the name of the Judge, and date of the order ; and an entry be made in the Cause Book of the sealing and name of the Judge, date of order, and date and time of filing : Additional Office Rules, March, 1884.

	Order.
Amendment without order, when.—Plaintiff may without leave amend his claim where indorsed on the writ, once before expiration of time limited for reply and before replying, or, where no defence is delivered, at any time before the expiration of *four weeks* from appearance of defendant who shall have last appeared	XXVIII. 2.
Time for amendment.—Within time limited by order, or, if none limited, within *fourteen days*	,, 7.
Amendments how made.—They may be written or printed according to their length, &c.	,, 8.
Marking date.—Date of order giving leave to amend, and date of amendment, must be marked	,, 9.
Service of amended writ.—Where an indorsement is amended the amended document must be delivered to the opposite party within the time allowed	,, 10.
Costs.—Costs of and occasioned by amendment made pursuant to rule 2 must be borne by the party making the same, unless otherwise ordered	,, 13.
Amendment by adding defendant.—In such case the plaintiff must file an amended copy of the writ, and serve it on the new defendant	XVI. 13.
Drawing up order.—Unless an order to amend is special, it need not be drawn up	LII. 14.

351.

Motion paper to amend clerical errors in writ (*b*). [Dan. Pr. 328.]

Formal parts: see Form 36.

To move on behalf of the plaintiff, for leave to amend the writ of summons issued in this action on the ——, 188—, and the copy thereof filed at the Central Office [*or*, with the Registrar of the District Registry at ——], by (*Here state the correction which it is desired to make, as:* substituting the name "Smythe" for the name "Smith" throughout the said writ; *or*, substituting the date "1884" for the date "1848" in the indorsement of claim on the said writ).

352.

Petition of course for the like. [Dan. Pr. 328.]

Formal parts: see Form 39.

The humble petition of the plaintiff.

Showeth as follows:

1. On the —— day of ——, 188—, your petitioner issued a writ of summons in this action out of the Chancery Division of this honourable Court.

2. Your petitioner has since discovered clerical errors in the said writ.

Your petitioner therefore humbly prays, that he may be at liberty to amend the said writ, and the copy thereof filed at the Central Office [*or*, with the Registrar of the District Registry at ——], by (*Continue as in* Form 351, *to the end*).

(*b*) An order for leave to amend the writ by correction of merely clerical errors therein, in names, dates or sums, may be obtained at any time upon motion or petition without notice. If the amendments are not such as to necessitate any amendment by the other parties, and it is desired to avoid re-service, an application is sometimes added, "that the writ and other documents herein already served be taken as amended accordingly."

353. Motion paper for leave to amend writ (*c*). [Dan. Pr. 328.

Formal parts: see Form 36.

To move on behalf of the plaintiff, for leave to amend the writ of summons issued in this action on the ——, 188—, and the copy thereof filed at the Central Office [*or*, with the Registrar of the District Registry at ——], as he shall be advised (*If an injunction has been obtained* (*d*), *add:* without prejudice to the injunction awarded in this action).

The writ has been served, but no statement of defence has yet been delivered.

354. Petition of course for the like. [Dan. Pr. 328.]

Formal parts: see Form 39.

The humble petition of the plaintiff.

Showeth as follows:

1. On the —— day of——, 188—, your petitioner issued a writ of summons in this action out of the Chancery Division of this honourable Court.

2. The defendant has been served with the said writ, but no statement of defence has yet been delivered.

3. Your petitioner is now advised to amend the said writ.

Your petitioner therefore humbly prays, that he may be at liberty to amend the said writ, and the copy (*Continue as in* Form 353, *to* advised, *or to* action).

355. Summons for the like (*e*). [Dan. Pr. 328.]

Formal parts: see Form 43.

on the part of the plaintiff, that he may be at liberty to amend the writ of summons issued in this action on the —— day of ——, 188—, and the copy thereof filed at the Central Office [*or*, with the Registrar of the District Registry at ——], by (*Here specify the nature of the amendment*

(*c*) An order of course to amend the writ may be obtained at any time before delivery of a statement of defence in the action; or after such delivery, with consent of all parties. An order of course to amend as plaintiff may be advised will not justify an alteration that strikes out the name of any plaintiff or defendant, or makes a person out of the jurisdiction a party; a writ may be amended before service by leave of a Master (on payment of the proper fee); and an amendment to a writ pursuant to an order of the Court or Judge, may be made either on an undertaking to get the order drawn up, or on a separate memorandum or certificate being left for filing, signed or initialed by the Judge or Registrar, showing the order to have been made: Rules of Practice Masters, 1880, 1881, 1882; and see *Matthias* v. *Matthias*, W. N. (1876), 214. For forms of order to amend, see R. S. C. App. K., No. 10; 2 Seton, 1519—1521. Unless however the order embodies any special terms, or includes any special directions, it need not now be drawn up, but the production of a note or memorandum of such order signed by a Judge, Registrar, Chief Clerk, or District Registrar, shall be sufficient authority for such amendment: R. S. C. Ord. LII. 14. Upon such note or memorandum a fee of 3*s.* is payable: by a stamp impressed or adhesive: Ord. as to S. C. Fees, 1884, Sched. No. 67; Ord. as to Fees, &c., July, 1884, p. 9.

(*d*) See Dan. Pr. 329.

(*e*) The application should, generally, be by summons and not by motion: *Wilson* v. *Church*, 9 Ch. D. 552; *Marriott* v. *Marriott*, 26 W. R. 416. For form of order to amend, see R. S. C. App. K., No. 10.

which it is desired to make; as thus: adding the name of John Jones as plaintiff thereto; *or*, by striking out the name of John Jones as defendant thereto, and adding his name as a plaintiff; and otherwise in relation thereto as the applicant may be advised);

If a notice of motion for an injunction or for a receiver is pending (*f*), *add:* without prejudice to the notice of motion for an injunction [*or*, for a receiver] in this action;

If an injunction has been obtained, add: without prejudice to the injunction awarded in this action;

If notice of trial has been given (*g*), *add:* without prejudice to the notice of trial in this action;

(*Conclude*): And that the costs of this application may be costs in the action.

356.
Summons for further time to amend (*h*).
[Dan. Pr 330.]

Formal parts: see Form 43.

on the part of the plaintiff, that he may have —— days' further time to amend the writ of summons in this action, pursuant to the order dated the —— day of ——, 188— [*if the time has expired, add:* notwithstanding the expiration of the time limited] (*i*); and that the costs of this application may be costs in the action.

357.
Præcipe for amended writ of summons (*j*).
[Dan. Pr. 329.]

(*Heading as in* Form 196.)

Amend, in pursuance of order [*or*, fiat) dated the —— day of ——, 188—, the writ of summons in this action by (*Set out amendments when required*).

Dated, &c.

(*Name and address of solicitor or party issuing the amended writ: see* Form 37).

(*f*) See Dan. Pr. 329.

(*g*) See *Earl de la Warr* v. *Cavendish*, V.-C. W., 22 Decr. 1865, Reg. Lib. A. 2421.

(*h*) See R. S. C. Ord. XXVIII. 7; and note (*a*), *supra*.

(*i*) See R. S. C. Ord. LXIV. 7.

(*j*) See R. S. C. App. G. No. 19. It is only necessary to sue out an amended writ of summons in the case where by the order a defendant or defendants is or are added: R. S. C. Ord. XVI. 13. In other cases the amendment is made in the copy writ filed at the Central Office, or with the District Registrar, on producing the order or fiat to the proper officer. On issuing an amended writ of summons a fee of 2*s.* 6*d.* is payable: by a stamp impressed thereon: Ord. as to S. C. Fees, 1884, Sched. No. 2; Ord. as to Fees, &c., July, 1884, p. 4.

As to Writs issued out of District Registry.—Writs of summons issued out of a District Registry cannot be amended by order or fiat of a Master, unless the action has been removed to London by appearance or otherwise. No such writ can be amended in the Central Office, unless the duplicate filed in the District Registry has been previously received in the Central Office: Rules of Practice Masters, 1880, 1881, 1882.

358.

Summons to strike out amendments (*k*). [Dan. Pr. 330.]

Formal parts: see Form 43.

on the part of the defendant A. B., that the amendments made in the writ of summons in this action since the order dated the —— day of ——, 188—, may be disallowed and may accordingly be struck out; and that the said writ of summons and the copy thereof filed at the Central Office [*or*, with the Registrar of the District Registry at ——] may be restored to the state in which they respectively were before such amendments were made; and that the plaintiff may be ordered to pay to the said defendant his costs occasioned by such amendments, and of striking out the same, and of this application.

359.

Summons to discharge irregular order to amend and to strike out amendments. [Dan. Pr. 330.]

Formal parts: see Form 43.

on the part of the defendant A. B., that the order made in this action and dated the —— day of ——, 188—, whereby it was ordered that (*Recite the ordering part*) may be discharged; and that the amendments made (*Continue as in* Form 358, *to the end.*)

360.

Summons for payment of defendant's costs of claim indorsed on writ of summons, but abandoned by amendment. [Dan. Pr. 330.]

Formal parts: see Form 43.

on the part of the defendant A. B., that the plaintiff may be ordered to pay to him so much of his costs of this action as have been occasioned by the plaintiff's claim for (*State what*) endorsed on the writ of summons in this action but since struck out or abandoned by the plaintiff; and also the said defendant's costs of this application.

Section VII.—Registering the Action as a Lis Pendens (*a*).

(*Dan. Pr.*, pp. 331—333, cccli.)

(*a*) *Registry of Lis Pendens.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Must be registered in the Department for Judgments, &c., of Central Office	LXI. r. 1 (6).
No *lis pendens* to be registered after 2 p.m.	,, 22.
The Registrar of judgments is, on request in writing, and payment of prescribed fee, to cause a search to be made in the registers or indexes under his custody, and to issue a certificate of the result thereof	,, 23.

(*k*) The application should in general be by summons: *Wilson* v. *Church*, 9 Ch. D. 552; *Marriott* v. *Marriott*, 26 W. R. 416.

361.

Memorandum for the registry, or re-registry, of a writ of summons, special case, or originating summons, as a *lis pendens* (*b*). [Dan. Pr. 331.]

Filed for registration (*c*), the —— day of ——, 188—, by A. B., of (*Place of business*),

Plaintiff's solicitor.

[*Or*, by A. B., of (*Place of residence*).

Plaintiff in person.]

LIS PENDENS.

A (*d*) writ of summons issued out of [*or*, A special case—*or*, An originating summons—filed in] the Chancery Division on the —— day of ——, 188— (*e*).

TITLE OF THE CAUSE.

(*Set out the names of all the parties.*)

NAME, ETC., OF THE PERSON WHOSE ESTATE IS INTENDED TO BE AFFECTED.

Surname.	Christian name or names.	Usual or last known place of abode.	Title, trade, or profession.
Brown	Edward James	No. 800, Oxford Street, in the county of Middlesex.	Linen-draper.

362.

Acknowledgment of satisfaction of a *lis pendens* (*f*). [Dan. Pr. 332.]

Satisfaction is acknowledged between A. B. and C. D., as to a writ of summons issued out of [*or*, a special case—*or*, an originating summons—filed in] the Chancery Division of the High Court of Justice on the —— day of ——, 188—, in an action wherein the said A. B. is plaintiff, and the said C. D. is defendant [*or as may be*]; a memorandum of which said writ of summons [*or as may be*] was left with the Registrar of Judgments of the Supreme Court on the —— day of ——, 188—, to affect the estate of the said C. D.

And I, the said A. B. [*or*, I, E. F., the executor—*or*, administrator—of the said A. B.,] do hereby expressly nominate and appoint G. H., of

(*b*) See 2 & 3 Vict. c. 11; 18 & 19 Vict. c. 15, s. 6. The memorandum must be on parchment; a form may be obtained at the registry. A fee of 2*s*. 6*d*. is payable on registering a *lis pendens*, though more than one name may have to be registered, and a fee of 1*s*. on re-registering the same: by a stamp impressed on the memorandum: Ord. as to S. C. Fees, 1884, Sched. Nos. 110, 111; Ord. as to Fees, &c., July, 1884, p. 12.

(*c*) If for re-registry, say, "Filed for re-entry."

(*d*) If for re-registry, say, "A re-entry of a writ of summons." [*Or*, "of a special case"—*Or*, "of an originating summons"].

(*e*) If for re-registry, add here, "Entered before on the —— day of ——, 188—."

(*f*) See 23 & 24 Vict. c. 115, s. 2; 30 & 31 Vict. c. 47, s. 2. For a certificate of entry of satisfaction, a fee of 1*s*. is payable: by a stamp impressed on the certificate: Ord. as to S. C. Fees, 1884, Sched. No. 113; Ord. as to Fees, &c., July, 1884, p. 12.

(*Place of business*), solicitor, to witness and attest the execution of this acknowledgment of satisfaction.

Signed by the said A. B. [*or*, E. F.], in the presence of me, the undersigned G. H., one of the solicitors of the Supreme Court. And I hereby declare myself to be the solicitor for and on behalf of the said A. B. [*or*, E. F.], expressly named by him, and attending at his request, to inform him of the nature and effect of this acknowledgment of satisfaction (which I accordingly did before the same was signed by him); and I also declare that I subscribe my name as witness thereto, as such solicitor.

G. H., of (*Place of business*).

A. B.,
the above-named plaintiff.

[*Or*, E. F., the executor—*or*, administrator—of the above-named plaintiff A. B.,] the —— day of ——, 188--.

363.

Petition of course for the entry of satisfaction of a *lis pendens*, by consent. [Dan. Pr. 333.]

Formal parts: see Form 39.

The humble petition of the plaintiff [*or*, defendant A. B.].

Showeth as follows:

1. *Show the institution of the action; as thus:* On the —— day of ——, 188—, your petitioner [*or*, the plaintiff] issued his writ of summons in this action out of the Chancery Division of this Honourable Court against the defendant A. B. [*or*, against your petitioner].

Or, On the —— day of ——, 188—, your petitioner [*or*, the plaintiff] filed a special case in this action against the defendant A. B. [*or*, against your petitioner].

Or, On the —— day of ——, 188—, an originating summons was issued on the part of your petitioner against the defendant A. B. [*or*, on the part of the plaintiff against your petitioner], for the administration of the estate of the above-named J. T. [*or as may be*].

2. *State the registration as a lis pendens; as thus:* On the —— day of ——, 188—, a memorandum of the said writ of summons [*or*, special case; *or*, summons] was filed with the Registrar of Judgments of the Supreme Court, for entry as a *lis pendens*, pursuant to the statute in this behalf, so as to affect the estate of the defendant A. B. [*or*, your petitioner]: who was described in such memorandum as (*Insert name and place of abode, &c.*).

If so: and on the —— day of ——, 188—, a like memorandum was filed with the said Registrar, for re-entry pursuant to the said statute.

3. *State desire to vacate entry; as thus:* The purposes for which the said writ of summons [*or*, special case; *or*, summons] was registered as aforesaid have been satisfied, and your petitioner is desirous that the entry of the said *lis pendens* should be discharged.

Your petitioner therefore humbly prays, that the proper officer may be at liberty to enter satisfaction in respect of

the said *lis pendens*, so registered as aforesaid, in the books kept by him for that purpose (*g*).

364.

Special petition for the entry of satisfaction of a *lis pendens* (*h*). [Dan. Pr. 333.]

Formal parts: see Form 40.

The humble petition of the above-named defendant A. B.

Showeth as follows:

1. 2. (*State the institution of the action, and the registration of the lis pendens: as in paragraphs* 1, 2 *of* Form 363).

3. (*State ground for requiring the registration to be vacated*).

4. (*State refusal to consent to the registration being vacated; as thus:* Your petitioner has applied to the said plaintiff to acknowledge satisfaction, or cause satisfaction to be entered, or consent to satisfaction being entered, in respect of the said *lis pendens*, in the proper books kept for that purpose; but the said plaintiff refuses to comply with such application).

Your petitioner therefore humbly prays, that the registration of the said *lis pendens*, as against your petitioner, may be vacated; and that an entry of the discharge of such *lis pendens* may be directed to be entered on the register kept by the Registrar of Judgments of the Supreme Court, pursuant to the statute in this behalf; and that the plaintiff C. D. may be ordered to pay to your petitioner all his costs and expenses occasioned by the registration of the said *lis pendens*, and of this application, and of vacating the said registration [*or as may be*]: such costs to be taxed by the Taxing Master.

Or that this honourable Court (*Conclude as in* Form 40; *and add foot note* Form 41).

365.

Notice of motion or summons for the like. [Dan. Pr. 332.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant A. B.

1. That the registration, on the —— day of ——, 188—, of the writ of summons [*or*, of the special case; *or*, originating summons] in this action as a *lis pendens*, in the register kept by the Registrar of Judgments of the Supreme Court, to affect the estate of the applicant, may be vacated; and that an entry of the discharge of such *lis pendens* may be directed to be entered on the said register.

2. That the plaintiff C. D. may be ordered to pay to the applicant all his costs and (*Continue as in* Form 364 *to* Taxing Master).

(*g*) When the defendant petitions, the consent of the plaintiff's solicitor to the prayer must be obtained. If the plaintiff declines to apply, or to consent to an application by the defendant, for an order to enter satisfaction, the order may be obtained on special petition, motion, or summons, on notice to the plaintiff: see Dan. Pr. 332; *Pooley* v. *Bosanquet*, 7 Ch. D. 541; and Forms 364 and 365.

(*h*) The application must be entitled in the matter of the Act 30 & 31 Vict. c. 47, and in the matter of the registered action: *Clutton* v. *Lee*, 7 Ch. D. 541: 24 W. R. 607. Notice must be given to the plaintiff, otherwise an order *nisi* only will be made: *Pooley* v. *Bosanquet*, 7 Ch. D. 541.

Section VIII.—Service of Writ of Summons or of Notice (*a*).

(*Dan. Pr.*, pp. 333—343, cccli.—ccclii.)

(*a*) *Service of Writ of Summons or of Notice.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Acceptance of service.—No service required, where defendant, by his solicitor, undertakes to accept service, and enters an appearance	IX. 1.
A solicitor not entering an appearance pursuant to his written undertaking is liable to attachment	XII. 18.
Personal service.—When service is required, the writ must, wherever it is practicable, be served personally	IX. 2.
Mode of service in case of particular defendants:—	
(1.) *Husband and wife.*—On both	,, 3.
(2.) *Infant.*—On father or guardian, or (if none) on person with whom infant resides; but the Court may order or adopt service on the infant	,, 4.
(3.) *Lunatic, &c.*—On committee of lunatic, or on the person with whom person of unsound mind not so found resides	,, 5.
(4.) *Partners.*—On any one or more of the partners, or at the principal place within the jurisdiction of the partnership business, on a person having the control or management of the business there	,, 6.
(5.) *Person carrying on business in firm name.*—At the principal place of the business within the jurisdiction	,, 7.
(6.) *Corporation aggregate.*—On mayor or other head officer, town clerk, clerk, treasurer, or secretary	,, 8.
(7.) *Hundredors.*—On high constables or any one of them; or, if none, on acting chief officer of police of the county	,, 8.
(8.) *Inhabitants of any county of any city or town, or of any franchise, liberty, city, town, or place, not being part of a hundred or other like district.*—On some peace officer thereof	,, 8.
(9.) *Corporation, society, or fellowship, or any body or number of persons, whether corporate or unincorporate.*—Where by any statute provision is made for service, service to be in such manner as by such statute provided	,, 8.
(10.) *Actions to recover land in case of vacant possession.*—Service may be effected by posting copy of the writ on a conspicuous part of the property	,, 9.

(1.) *Acceptance of Service.*

366. Acceptance of service of writ of summons, and undertaking to appear thereto (*b*). [Dan. Pr. 333.]

—— *v.* ——.

I accept service of the writ of summons in this action on behalf of the defendant A. B., and undertake to enter an appearance for him thereto in due course.

Dated ——, 188—.

X. Y.
Solicitor for the defendant A. B.

(*b*) See R. S. C. Ord. IX. 1. As to attachment against solicitor in default of his entering an appearance pursuant to his undertaking, see R. S. C. Ord. XII. 18.

367.
The like, by indorsement on writ.
[Dan. Pr. 333.]

I accept service of this writ on behalf of the defendant [*or*, of the defendant A. B.], and undertake to enter an appearance for him thereto in due course.

Dated ——, 188—.

X. Y.,
Solicitor for the defendant A. B.

(2.) *Substituted Service* (*c*).

(*c*) *Substituted service.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Where prompt personal service cannot be effected Court may order substituted or other service, or direct the substitution for service of notice, by letter, advertisement, or otherwise . .	IX. 2. LXVII. 6.
Every application for an order for substituted service must be supported by affidavit	X.

368.
Motion paper for order for substituted or other service, or for the substitution for service of notice (*d*).
[Dan. Pr. 339.]

Formal parts : see Form 36.

To move on behalf of the plaintiff, that service of the writ of summons issued in this action on the —— day of ——, 188—, by (*Here describe the mode of service proposed; as :*) leaving a copy thereof, together with a copy of the order to be made hereon, at the place of residence situate at ——, and at the place of business situate at ——, of the defendant A. B. (*e*),

Or, by sending a copy of the said writ of summons, together with a copy of the order to be made hereon, through the post pre-paid, in an envelope addressed to the defendant A. B., at —— (*f*),

Or, by the publication by advertisement of the said writ of summons, and of the order to be made hereon, once in the "London Gazette," once in the "Times," and once in the "Daily News" newspapers [*or as may be*] (*g*),

(*d*) See R. S. C. Ord. IX. 2. There are three modes in which service may be ordered, where prompt personal service cannot be effected : (1) by substituted service on some agent of defendant ; (2) by leaving a copy of the writ at defendant's place of business, &c., and inserting advertisement ; (3) by substitution of notice to defendant for service upon him.

(*e*) See *Cook* v. *Dey*, 2 Ch. D. 218 ; *Crane* v. *Jullion*, 2 Ch. D. 220 ; *Capes* v. *Brewer*, 24 W. R. 40.

(*f*) *Dymond* v. *Croft*, 24 W. R. 842 ; *Raphael* v. *Ongley*, 34 L. T. 124 ; in the latter case advertisements were directed in addition.

(*g*) See *Cook* v. *Dey*, 2 Ch. D. 218 ; *Crane* v. *Jullion*, 2 Ch. D. 220 ; *Waters* v. *Waters*, 24 W. R. 190 ; *Whitley* v. *Honeywell*, 24 W. R. 851 ; *Raphael* v. *Ongley*, 34 L. T. 124 ; *O'Sheehy* v. *O'Sheehy*, 34 L. T. 367 ; *Mellows* v. *Bannister*, W. N. (1882), 183 : 31 W. R. 238 ; *Coulburn* v. *Carshaw*, 32 W. R. 33. For form of order, see R. S. C. App. K., No. 21 ; 2 Seton, 1622, No. 3. Unless the order shall otherwise direct, a copy of the order and of the writ shall be deemed to have been served on the day following the day on which a prepaid letter containing such copy shall have been posted : Rules of Practice Masters, 1880, 1881, 1882.

Or, by serving the said writ of summons, together with a copy of the order to be made hereon upon (*Describe the proposed substitute, as:* C. D. and E. F., of the firm of Messrs. D. & F., of (*Place of business*), solicitors, or one of them) (*h*),

may be deemed good service of the said writ of summons upon the said defendant A. B.

An affidavit in support accompanies.

369.

Summons for like order (*hh*). [Dan. Pr. 339.]

Formal parts: see Form 43.

on the part of the plaintiff, that service of (*Continue as in last form, to end*).

370.

Affidavit in support (*i*). [Dan. Pr. 339.]

Formal parts: see Form 6.

1. On the —— day of ——, 188—, the writ of summons in this action was issued out of the Central Office of the Supreme Court against the defendant A. B., but no appearance thereto has been entered by or on behalf of the said defendant. The said writ was subscribed and indorsed in the manner and form prescribed by the Rules of the Supreme Court.

2. (*Show what efforts have been made to effect personal service of the writ of summons on the defendant, and that it is impracticable to effect such personal service promptly.*)

3. (*State how the substituted or other service is proposed to be effected.*)

4. (*Show means of knowledge.*)

371.

Notice for insertion in newspapers, in substitution for personal service of writ of summons (*k*). [Dan. Pr. 339.]

Formal parts: see Form 37.

To the above-named defendant A. B.

Take notice, that this action was, on the —— day of ——, 188—, commenced against you, and that the plaintiff by his writ of summons claims (*Here copy claim indorsed on writ*), and that the Court has by order dated the —— day of ——, 188—, authorised service of the said writ of summons on you, by the insertion of this notice once in the "London Gazette," once in the "Times," and once in the "Daily News" newspapers [*or as may be*].

(*h*) *Waters* v. *Waters*, 24 W. R. 190; *Dymond* v. *Croft*, 24 W. R. 842; *O'Sheehy* v. *O'Sheehy*, 34 L. T. 367; *Mellows* v. *Bannister*, W. N. (1882), 183: 31 W. R. 238; *Coulburn* v. *Carshaw*, 32 W. R. 33. In *Waters* v. *Waters*, *O'Sheehy* v. *O'Sheehy*, *Mellows* v. *Bannister*, and *Coulburn* v. *Carshaw*, the action was ordered to be advertised as well. For notes on the case as to substituted service, see Wilson, 192, 193; Ann. Pr. 139—142; Chitty's Forms, 87, note (*g*). The order for substituted service must be served upon the substitute at the same time that the writ of summons is served.

(*hh*) See notes to last form. The application will usually be made by summons.

(*i*) See R. S. C. Ord. X. A certificate of non-appearance should be produced. A fee of 2*s.* 6*d.* is payable: by a stamp impressed on or adhesive to the certificate: Ord. as to S. C. Fees, 1884, Sched. No. 42; Ord. as to Fees, &c., July, 1884, p. 7.

(*k*) For cases in which advertisements have been directed, see note (*g*) to Form 368. For form of order, see 2 Seton, 1622, No. 3.

And further take notice, that you are required to appear to the said writ of summons within eight days after the insertion of the last of the said notices in manner aforesaid, inclusive of the day of such insertion; and that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

(3.) *Service out of the Jurisdiction (a).*

(a) Service out of the Jurisdiction.—Summary of Material Provisions of R. S. C. 1883.

Cases in which such service allowed:—whenever	ORDER.
(*a*) The whole subject-matter of the action is land situate within the jurisdiction (with or without rents or profits)	XI. 1 (*a*).
(*b*) Any act, deed, will, contract, obligation, or liability affecting land or hereditaments situate within the jurisdiction, is sought to be construed, rectified, set aside, or enforced in the action	,, (*b*).
(*c*) Any relief is sought against any person domiciled or ordinarily resident within the jurisdiction . . .	,, (*c*).
(*d*) The action is for the administration of the personal estate of any deceased person, who at the time of his death was domiciled within the jurisdiction, or for the execution (as to property situate within the jurisdiction) of the trusts of any written instrument, of which the person to be served is a trustee, which ought to be executed according to the law of England	,, (*d*).
(*e*) The action is founded on any breach, or alleged breach, within the jurisdiction of any contract wherever made, which, according to the terms thereof, ought to be performed within the jurisdiction, unless the defendant is domiciled or ordinarily resident in Scotland or Ireland	,, (*e*).
(*f*) Any injunction is sought as to anything to be done within the jurisdiction, or any nuisance within the jurisdiction is sought to be prevented or removed, whether damages are or are not also sought in respect thereof.	,, (*f*).
(*g*) Any person out of the jurisdiction is a necessary or proper party to an action properly brought against some other person duly served within the jurisdiction	,, (*g*).
Discretion of Judge where defendant is in Scotland or Ireland.—In such cases, where it appears there is a concurrent remedy in Scotland or Ireland, the Court or Judge is to have regard to the comparative cost and convenience of proceeding in England or in place of residence of defendant and, particularly in cases of small demands, to the powers, &c., of the Scotch and Irish Courts respectively	,, 2.
Evidence in support of application for leave to serve.—Every application must be supported by affidavit or other evidence: (1) stating that in deponent's belief there is a good cause of action in plaintiff; (2) showing in what place or country defendant is or may probably be found; (3) whether he is a British subject or not; (4) the grounds for the application. No leave is to be granted unless it is made to appear to the Court or a Judge that the case is a proper one for service out of the jurisdiction .	,, 4.

	Order.
Time for appearance.—This must be limited by the order .	XI. 5.
Notice in lieu of writ.—Must be given where defendant is neither a British subject, nor in British dominions . . .	„ 6.
Such notice must be served in the same manner as writs of summons	„ 7

372.

Affidavit in support of application for leave to serve writ of summons, or notice of a writ of summons, out of the jurisdiction (*b*).

[Dan. Pr. 341.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge.*)

In the matter of the Supreme Court of Judicature Acts 1873 to 1884.

And in the matter of an intended action between A. B., plaintiff, and E. F., defendant (*c*).

I, A. B., of (*&c.: see* Form 6), the above-named plaintiff [*or as may be*] (*d*), make oath and say as follows :—

1. This action is brought for the purpose of (*Here state the cause of action in respect of which the action is brought, bringing the case within one of the seven classes mentioned in R. S. C. Ord. XI.* 1, *and in note* (*a*) *supra* (*dd*) ; *as thus :*

(*a*) taking an account of what is due to me [*or*, the plaintiff] for principal, interest, and costs, on a mortgage dated the —— day of ——, 188—, and made between (*State parties*), whereby the amount due under the said mortgage was charged upon land and houses situate at ——, in the county of ——, within the juris-

(*b*) See R. S. C. Ord. XI. 4.

(*c*) See *Young* v. *Brassey*, 1 Ch. D. 277.

Practice on making the Application :—

(1.) One application is to be made before the issuing of the writ, both for leave to issue it, and for leave to serve it, or to give notice of it, out of the jurisdiction.

(2.) The application must be supported by the affidavit required by Ord. XI. 4. No motion is to be made or summons issued.

(3.) The unsealed writ is to be left at the Chambers of the Judge, with an office copy of the affidavit above mentioned.

(4.) The order (if any) made upon the application is put upon the writ ; thus : (*Chambers and date*) Let this writ be issued, with liberty to serve it [*or*, notice of it] on the defendant ——, at ——, or elsewhere in the (kingdom) of ——. The time for the defendant to enter an appearance is to be (*insert the time*) after service ; see *Stigand* v. *Stigand*, 19 Ch. D. 460 : 30 W. R. 312. A fee of 3*s.* is payable on the memorandum giving leave to issue the writ : Ord. as to S. C. Fees, 1884, Sched. No. 67 ; Ord. as to Fees, &c., July, 1884, p. 9. Leave *cannot* be given by a District Registrar (Ord. XXXV. 6), or Master (Ord. LIV. 12 (*b*)). For cases as to service out of the jurisdiction, see Wilson, 200, 201 ; Ann. Pr. 143—149. For form of order, see R. S. C. App. K., No. 20 ; 2 Seton, 1623, No. 4.

(*d*) The affidavit may be made by the solicitor of plaintiff, or by any other person who can depose to the facts : *Great Australian Gold Mining Co.* v. *Martin*, 5 Ch. D. 1.

(*dd*) The plaintiff's case must come within one of the instances given in the rule : *In re Eager, Eager* v. *Johnstone*, 22 Ch. D. 86 : 31 W. R. 33.

diction of this Court; and of having the said mortgage enforced by foreclosure or sale; *or*,

recovering possession of certain lands, tenements, and hereditaments, known as The Blackacre Estate, situate at ——, in the county of ——, within the jurisdiction of this honourable Court; *or*,

(*b*) rectifying a settlement dated the —— day of ——, and made between (*State parties*), whereby certain lands situate at ——, in the county of ——, within the jurisdiction of this honourable Court were settled upon certain trusts therein mentioned, and under which the defendant E. F. claims to be entitled; *or*,

(*c*) having the accounts taken of a partnership between me [*or*, the plaintiff], and the defendant E. F., under certain articles of partnership dated the —— day of ——, 188—, and made between myself [*or*, the plaintiff] of the one part and the defendant E. F. of the other part, for carrying on the business of ——, at ——, within the jurisdiction of this honourable Court; *or*,

(*d*) the administration of the personal estate of G. H., deceased, who at the time of his decease was domiciled within the jurisdiction of this honourable Court; *or*,

executing the trusts of a settlement dated the —— day of ——, 188—, and made between A. B. of the 1st part, C. D. of the 2nd part and the defendant E. F. and one G. H. of the 3rd part, whereby the sum of £10,000 Consolidated 3 per Cent. Annuities [*or, as may be*], was settled upon certain trusts, under which I am [*or*, the plaintiff is] beneficially interested; *or*,

(*e*) recovering damages for breach of a contract made at ——, within the jurisdiction of this honourable Court [*or*, at ——, in the (kingdom) of ——], whereby the defendant E. F. agreed to sell and deliver to me [*or*, to the plaintiff], on the —— day of ——, 188—, at —— in the City of London, certain goods made by him in [Paris] in the way of his trade of a ——, for the price of £——, which I [*or*, the plaintiff] agreed to pay him for the same (*e*); *or*,

(*f*) obtaining an injunction to restrain the defendant from transferring, or otherwise parting with, ten debenture bonds of the London, Chatham and Dover Railway Company; *or*,

obtaining an injunction restraining the defendant, his servants and agents, from polluting the waters of the river —— which runs through the farm known as ——, in the county of ——, within the jurisdiction of this honourable Court, of which I am [*or*, the plaintiff is] occupier, by sending into the said river the refuse of the dyeworks belonging to the said defendant situate higher up the said river).

2. I am advised and verily believe that I have [*or*, the said plaintiff

(*e*) There must be an actual breach within the jurisdiction: R. S. C. Ord. XI. 1 (*e*). The fact of mere damages being incurred within the jurisdiction is not sufficient: *Shearman* v. *Findlay*, 32 W. R. 122.

has] a good cause of action against the said defendant, in respect of the matters aforesaid.

3. The said defendant resides, or may probably be found, at ——, in the (kingdom) of ——, out of the jurisdiction of this honourable Court, and is [*or*, is not] a British subject (*f*); *or*,

The said defendant is domiciled [*or*, ordinarily resident] within the jurisdiction of this honourable Court (*g*), but is temporarily residing or may probably be found at ——, in the (kingdom) of ——, out of the jurisdiction of this honourable Court.

4. The amount or value of the property in dispute [*or*, The amount sought to be recovered] is £—— or thereabouts.

5. (*If the defendant is resident in Scotland or Ireland, show that there is no concurrent remedy in Scotland—or in Ireland, as the case may be—or, if there is, the expediency in point of cost and convenience of proceeding in England, and particularly, in the case of a small demand, that it is not within the power or jurisdiction, under the Statutes establishing or regulating them, of any of the Sheriffs' Courts or Small Debts Courts in Scotland—or of the Civil Bill Courts in Ireland—as the case may be* (*h*).)

373.

Affidavit in support of application to serve a person out of the jurisdiction who is a necessary or proper party to an action against another served within the jurisdiction (*hh*).

Formal parts: as in Form 6.

1. This action is brought for the purpose of (*State cause of action; as thus:*

enforcing a certain agreement of partnership, dated the —— day of ——, 188—, made between myself [*or*, the plaintiff] of the first part, the defendant C. D., of the second part, and E. F., of —— in the Republic of France [*or as may be*] of the third part).

2. The defendant C. D. has been duly served within the jurisdiction of this Court with the writ of summons in this action.

3. The said E. F. resides at —— aforesaid, out of the jurisdiction of

(*f*) Where defendant is resident in Scotland or Ireland the omission to state that he is a British subject is immaterial: *Fowler* v. *Barstow*, 20 Ch. D. 240: 30 W. R. 112.

(*g*) See R. S. C. Ord. XI. 1 (*c*).

(*h*) R. S. C. Ord. XI. 2. In the case of a defendant domiciled or ordinarily resident in Scotland or Ireland, the discretion must be *personally* exercised by the Judge: see *Tottenham* v. *Barry*, 12 Ch. D. 797: 28 W. R. 180. There is no power in actions for breach of contract to allow service on defendants domiciled in Scotland or Ireland: *Lenders* v. *Anderson*, 12 Q. B. D. 50: 32 W. R. 230; see also *Agnew* v. *Usher*, 14 Q. B. D. 78: 33 W. R. 126. In *Speckhart* v. *Campbell, Achnach & Co.*, W. N. (1884), 24, leave was given to serve defendants resident in Aberdeen, and having no place of business within the jurisdiction, on allegation that they had sold, within the jurisdiction, articles infringing the plaintiff's patent. On application to discharge the order, the defendant is entitled to go into evidence showing that no cause of action has arisen within the jurisdiction: *Fowler* v. *Barstow*, 20 Ch. D. 240: 30 W. R. 112. As to submission by defendant to the jurisdiction, see *Re Orr-Ewing*, 31 W. R. 465.

(*hh*) See R. S. C. Ord. XI. 1 (*g*); *J. Lightowler* v. *J. & J. Lightowler*, W. N. (1884), 8; *Sykes* v. *Schofield*, 28 Sol. J. 477; *Yorkshire Tannery, &c. Co.* v. *Eglinton Chemical Co.*, W. N. (1884), 200: 33 W. R. 162. A third party notice cannot be served on a person domiciled or ordinarily resident out of the jurisdiction: *Speller* v. *Bristol Steam Navigation Co.*, 13 Q. B. D. 96: 32 W. R. 670.

this Court, but is a necessary and proper party to this action. He is [*or*, is not] a British subject.

4. I am advised and verily believe that I have [*or*, the said plaintiff has] a good cause of action against the said C. D. and E. F. in respect of the matters aforesaid.

374.
Notice of writ, in lieu of service, to be given out of the jurisdiction (*i*). [Dan. Pr. 341, 342.]

(*Title and reference to the record, as in the Writ of Summons.*)

To G. H., of ——.

Take notice, that A. B., of ——, has commenced an action against you, G. H., in the Chancery Division of Her Majesty's High Court of Justice in England, by writ of that Court, dated the —— day of ——, A.D. 188—, which writ is indorsed as follows (*copy in full the indorsements*); and you are required within —— days (*j*) after the receipt of this notice, inclusive of the day of such receipt, to defend the said action, by causing an appearance to be entered for you in the said Court to the said action; and in default of your so doing, the said A. B. may proceed therein, and judgment may be given in your absence.

You may appear to the said writ by entering an appearance personally or by your solicitor at the Central Office, Royal Courts of Justice, London.

(Signed) A. B., of ——, *&c.*
or,
X. Y., of ——, *&c.*
Solicitor for A. B. (*jj*).

375.
The like, where writ issued from district registry (*k*). [Dan. Pr. 342.]

(*Title and reference to the record, as in the Writ of Summons.*)

To G. H., of ——.

Take notice, that A. B., of ——, has commenced an action against you, G. H., in the Chancery Division of Her Majesty's High Court of Justice in England, by writ of that Court, dated the —— day of ——, 188—, which writ is indorsed as follows (*copy in full the indorsements*); and you are hereby required within (*l*) —— days after the receipt of this notice, inclusive of the day of such receipt, to defend the said action by causing an appearance to be entered for you thereto; and in default of your so doing the said A. B. may proceed therein, and judgment may be given in your absence.

If you reside or carry on business within the above-named district, appearance is to be entered at the office of the registrar for that district (*Insert address of office*).

(*i*) See R. S. C. Ord. XI. 6. For form in the text, see R. S. C. Ord. II. 5, App. A., Part I., No. 9. The notice is to be given where defendant is neither a British subject nor in British dominions: R. S. C. Ord. XI. 6; and note (*a*), *supra*. As to mode of service of the notice, see R. S. C. Ord. XI. 7.

(*j*) Here insert the time fixed for appearance by the order or fiat giving leave to serve the writ, or to give notice of it out of the jurisdiction. As to this time, see note (*c*).

(*jj*) See R. S. C. Ord. IV. 1, 2.

(*k*) See R. S. C. Ord. XI. 6; *Ibid.*, Ord. II. 5; App. A., Part I., No. 10.

(*l*) See note (*j*). The following is a table of the times formerly inserted

If you do not either reside or carry on business within that district, appearance is to be entered either at the office of the said registrar or at the Central Office, Royal Courts of Justice, London.

(Signed : *as in* Form 374.)

This notice was served by, *&c.*

N.B.—This notice is to be used where the person to be served is not a British subject, and is not in British dominions.

by the registrars in orders for service out of the jurisdiction of a Bill in Chancery :—

Place or Country.	Time to Appear.		
	Calendar months.	Weeks.	Days.
America, Central	—	10	—
America, North :			
British Possessions	2	—	—
United States, Eastern	2	—	—
„ Western (on the Pacific)	6	—	—
America, South	—	10	—
States on the Pacific	5	—	—
Australasia	6	—	—
Austrian Empire	—	4	—
Belgium	—	—	14
Brazils	3	—	—
Channel Islands	—	—	10
China	6	—	—
Denmark	—	—	21
France	—	—	14
German States	—	—	21
Greece	—	6	—
Holland	—	—	14
India	5	—	—
Indian Archipelago	6	—	—
Ionian Islands	—	6	—
Ireland	—	—	10
Isle of Man	—	—	10
Italy	—	4	—
Madeira	—	4	—
Malta	—	4	—
Mexico	—	10	—
Norway	—	4	—
Persia	5	—	—
Portugal	—	—	21
Prussia	—	—	21
Russia in Europe	—	6	—
Scotland	—	—	10
Spain	—	—	21
Sweden	—	4	—
Switzerland	—	—	21
Turkey in Asia	3	—	—
Turkey in Europe	—	6	—
West Indies	—	10	—

The times above mentioned are in many cases inapplicable, having regard to the present facilities for communication. They are in each case in the discretion of the Judge, and will be fixed according to the case, and the facilities for postage to the particular place. As a general rule, double the time ordinarily taken to reach the defendant's place of residence is allowed for appearing ; 2 Seton, 1623.

(4.) *Indorsement on Writ of service thereof.*

376.

Indorsement to be made on writ after service (*m*). [Dan. Pr. 336.]

This writ was served by me at —— on the defendant C. D., on the —— day of ——, 188—.

Indorsed the —— day of ——, 188—.

(Signed) ——.

(Address) ——.

Section IX.—Setting aside the Writ of Summons or service thereof (*a*).

(*Dan. Pr.*, pp. 343—345, cccli.)

(*a*) *Setting aside Writ of Summons, &c.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
No conditional appearance is necessary.—A defendant, before appearing, and without any conditional appearance, may serve notice of motion to set aside service of the writ or of notice of the writ, or to discharge the order	XII. 30.
Power of amendment.—The Court or a Judge may at any time amend any defect or error in any proceedings . . .	XXVIII. 12.
Non-compliance with any of the Rules of Court or with any rule of practice will not render the proceedings void unless the Court or a Judge shall so direct, but such proceedings may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with, as the Court shall think fit	LXX. 1.
Application to set aside: when and how to be made.—No application to set aside proceedings for irregularity will be allowed unless made in a reasonable time, nor if party applying has taken a step after knowledge of the irregularity	,, 2.
[Entering appearance is such a step: *Mulkern* v. *Doerks*, 53 L. J. Q. B. 526: 51 L. T. 429.]	
Upon such application the objections intended to be insisted on must be stated in the notice of motion	,, 3.

377.

Notice of motion to set aside writ of summons. [Dan. Pr. 344.]

Formal parts: see Form 39.

on the part of the defendant C. D., that the writ of summons in this action and all subsequent proceedings therein may be set aside

If there are other defendants than the applicant, add: as against the said defendant C. D.,

on the ground that (*Here specify the objection or objections intended to be insisted upon* (*aa*)*; as thus:*

(*m*) See R. S. C. Ord. IX. 15; App. A., Part 1, No. 1. This indorsement is to be made by the person serving the writ within *three days*, at most, after service; and every affidavit of service of the writ must mention the day on which such indorsement was made: Ord. IX. 15. The rule now applies to substituted as well as other service: *Ibid.* In *Sproat* v. *Peckett*, W. N. (1883), 76, the time for making the indorsement was extended, and liberty given to the plaintiff to proceed by default as if the indorsement had been made in due time.

(*aa*) See R. S. C. Ord. LXX. 3; *In re the South African Syndicate Company*, 28 Sol. J. 120. There is no jurisdiction to hear the application unless the notice of motion states the grounds of the application.

the said writ of summons was issued for service out of the jurisdiction of this Court, without the leave of the Court or a Judge (*aaa*) ; *or*,

the said writ of summons has no statement endorsed thereon of the nature of the claim made or of the relief or remedy required in the action (*b*) ; *or*,

the said writ of summons has no statement endorsed thereon of the amount claimed by the plaintiff for debt and costs (*c*) ; *or*,

the said writ of summons has no address for service endorsed thereon (*d*) ; *or*,

the address for service endorsed on the said writ of summons is illusory and fictitious (*e*)) ;

and that the plaintiff may be ordered to pay to the said defendant C. D. his costs of this application.

378.

Notice of motion to set aside concurrent writ of summons. [Dan. Pr. 345.]

Formal parts : see Form 39.

on the part of the defendant C. D., that the concurrent writ of summons issued in this action on the —— day of ——, 188—, and all subsequent proceedings therein may be set aside

If there are other defendants than the applicant, add : as against the said defendant C. D.,

on the ground that (*Here specify the objection or objections intended to be insisted upon ; as thus :*

the said concurrent writ of summons was issued more than twelve months after the issuing of the original writ of summons in this action (*f*)) ;

and that the plaintiff may be ordered to pay to the said defendant C. D., his costs of this application.

379.

Affidavit in support. [Dan. Pr. 344.]

Formal parts : see Form 6.

1. On the —— day of ——, 188—, I was served with the paper writing now produced and shown to me, and marked A (*ff*), and which purports to be a copy of a (concurrent) writ of summons issued out of the Chancery Division of this honourable Court on the —— day of ——, 188—.

2. (*Verify the objections intended to be insisted upon.*)

3. (*Show means of knowledge.*)

(*aaa*) See R. S. C. Ord. II. 4.
(*b*) *Ibid.*, II. 1 ; III. 1.
(*c*) *Ibid.*, III. 7.
(*d*) *Ibid.*, IV.
(*e*) *Ibid.*
(*f*) *Ibid.*, VI. 1.
(*ff*) For form of memorandum of exhibit, see Form 28.

380.
Notice of motion to set aside service of writ of summons. [Dan. Pr. 344.]

Formal parts: see Form 39.
on the part of the defendant C. D., that the service of the writ of summons [*or*, concurrent writ of summons] in this action on the said defendant [*or*, the notice in lieu of service of the writ of summons in this action given to the said defendant]

If the service was effected out of the jurisdiction, add: at ——, in the (kingdom) of ——, out of the jurisdiction of this honourable Court

and all subsequent proceedings in this action may be set aside,

If there are other defendants than the applicant, add: as against the defendant C. D.

on the ground that *(Here specify the objection or objections intended to be insisted upon; as thus:*

the said writ of summons was served after the expiration of twelve months from the day of the date of the issue thereof, and without having been duly renewed (*g*); *or*,

the said concurrent writ of summons was served after the expiration of twelve months from the day of the date of the issuing of the original writ of summons in this action, and without having been duly renewed (*h*); *or*,

such service was effected [*or*, such notice was given] out of the jurisdiction of the Court, and without the leave of the Court or a Judge (*i*));

And that the plaintiff may be ordered to pay to the said defendant C. D. his costs of this application.

381.
Notice of motion to discharge order for service out of the jurisdiction, and to set aside service (*j*). [Dan. Pr. 344.]

Formal parts: see Form 39.
on the part of the defendant C. D., that the order [*or*, fiat] dated the —— day of ——, 188—, in this action, whereby liberty was given to serve the writ of summons in this action on the said defendant [*or*, to give notice in lieu of service of the writ of summons in this action to the said defendant] at ——, in the (kingdom) of ——, out of the jurisdiction of this honourable Court, may be discharged; and that the service of the said writ on the said defendant [*or*, the notice in lieu of service of the said writ given to the said defendant], and all subsequent proceedings in this action, may be set aside [*If*

(*g*) See R. S. C. Ord. VIII. 1.
(*h*) *Ibid.*, VI. 1; *Ibid.*, VIII. 1.
(*i*) *Ibid.*, XI.
(*j*) See R. S. C. Ord. XI.; *Great Australian Gold Mining Co.* v. *Martin*, 5 Ch. D. 1. A defendant who alleges that leave to serve a writ out of the jurisdiction was wrongly given should apply to set aside the order giving leave: *Preston* v. *Lamont*, 1 Ex. D. 361; *Fowler* v. *Barstow*, 20 Ch. D. 240: 30 W. R. 112. The objection cannot be taken in the defence: *Preston* v. *Lamont*, *ubi supra*. The application should be made promptly: *Ibid.*, at p. 362; R. S. C. Ord. LXX. 2.

[*If there are other defendants than the applicant, add:* as against the said defendant C. D.]

on the ground that (*Here state the ground for the application; as thus:*

the land which is the subject-matter of this action is not, nor is any part thereof, situate within the jurisdiction of this honourable Court (*k*); *or*,

the land [*or*, hereditaments] affected by the deed [*or*, will; *or as may be*], which is the subject-matter of this action, is not, nor is any part thereof, situate within the jurisdiction of this honourable Court (*l*); *or*,

the said defendant is not domiciled or ordinarily resident within the jurisdiction of this honourable Court (*m*); *or*,

G. H., the intestate [*or*, testator], whose personal estate is sought to be administered in this action, was not at the time of his death domiciled within the jurisdiction of this honourable Court (*n*); *or*,

there is no property situate within the jurisdiction of this honourable Court subject to the trusts of the indenture of settlement [*or as may be*] of which the trusts are sought to be executed in this action (*n*); *or*,

there has been no breach within the jurisdiction of this honourable Court of the contract to enforce which this action is brought (*o*); *or*,

the acts to restrain which this action is brought are not intended to be done within the jurisdiction of this honourable Court (*p*); *or*,

the said defendant C. D. is not a necessary or proper party to this action (*q*); *or*,

the application for the said order was not supported by the evidence required by the rules of the Supreme Court, Ord. XI., rules 2 and 4 (*r*)).

And that the plaintiff may be ordered to pay to the said defendant C. D. his costs of this application.

382.

Notice of motion to discharge order for service of writ of summons on a foreigner out of British dominions, and to set aside service. [Dan. Pr. 344, 345.]

Formal parts: see Form 39.

on the part of the defendant C. D., that the order [*or*, fiat] dated the —— day of ——, 188—, in this action, whereby liberty was given to serve the writ of summons in this action on the said defendant at ——, in the (kingdom) of ——, out of the jurisdiction of this honourable Court, may be discharged; and that the service of the said writ on the said defendant and all subsequent proceedings in this action may be set aside

(*k*) See R. S. C. Ord. XI. 1 (*a*). (*l*) *Ibid.*, XI. 1 (*b*).
(*m*) *Ibid.*, XI. 1 (*c*). (*n*) *Ibid.*, XI. 1 (*d*).
(*o*) *Ibid.*, XI. 1 (*e*). (*p*) *Ibid.*, XI. 1 (*f*). (*q*) *Ibid.*, XI. 1 (*g*).
(*r*) See R. S. C. Ord. XI. 2, as to evidence where defendant is resident in Scotland or Ireland; *Ibid.*, 5, where defendant is resident elsewhere.

[*If there are other defendants than the applicant, add:* as against the said defendant C. D.],

on the ground that the said defendant was not at the time of such service a British subject, and was then resident at ——, in the (kingdom) of ——, out of British Dominions. And that the plaintiff may be ordered to pay to the said defendant C. D. his costs of this application.

383.

Affidavit in support. [Dan. Pr. 344.]

Formal parts: see Form 6.

1. On the —— day of ——, 188—, I [*or*, the above-named defendant C. D.] was served at ——, in the (kingdom) of ——, out of the British Dominions, with the paper writing now produced and shown to me, and marked A. (*s*), and which purports to be a copy of a writ of summons issued out of the Chancery Division of this honourable Court on the —— day of ——, 188—.

2. (*Verify the facts relied on as a ground for setting aside the service of the writ.*)

3 (*Show means of knowledge.*)

(*s*) For form of memorandum of exhibit, see Form 28.

CHAPTER VII.

APPEARANCE AND PROCEEDINGS IN DEFAULT OF APPEARANCE.

(*Dan. Pr.*, pp. 346—364, ccclii.—cccl v.)

SECTION I.—APPEARANCE (*a*).

(*Dan. Pr.*, pp. 346—355, ccclii.—ccclii.)

(*a*) *Appearance.—Summary of Material Provisions of R. S. C.* 1883.

	ORDER.
Where to be entered:—	
1. *In general.*—Except where otherwise provided, in London	XII. 1.
Such appearance to be in Central Office	,, 2.
2. *Where writ issued in District Registry.*—If defendant resides or carries on business within the district, he must appear in the Registry	,, 4.
If otherwise, he may appear either in the Registry or at the Central Office	,, 5.
Where action to proceed.—Where the defendant or defendants, or all who appear, appear in a registry, the action will, (subject to power of removal—Ord. XXXV. 13—16) proceed in the Registry	,, 6.
If any defendant appears in London, the action will proceed there, but if he is a merely formal defendant, or has no substantial cause to interfere in the conduct of the action, an order may be made for the action to proceed in the Registry	,, 7.
Time for appearance.—Any time before judgment; but if after time limited by the writ, defendant will have no further time to put in defence, &c., than if he had appeared according to the writ	,, 22.
Mode of appearance.—A memorandum must be delivered to the proper officer, dated on the day of delivery, containing the name or defendant's solicitor, or stating that defendant defends in person. A duplicate of such memorandum must be delivered, and which will be sealed and returned to the person entering the appearance. Such duplicate is a certificate that appearance was entered on the day indicated by the seal	,, 8.
If two or more defendants appear by the same solicitor at the same time, the names of them all must be inserted in one memorandum	,, 17.
Form of memorandum.—The memorandum must be in the prescribed form (App. A. Pt. II. No. 1)	,, 13.
Entry in cause book.—On receipt of memorandum the officer must enter the appearance in the cause book	,, 14.
Notice of appearance.—Must be given the same day to plaintiff or his solicitor—such notice to be in the prescribed form (App. A. Pt. II. No. 2), and to be given, either by being served at address for service, or by prepaid letter posted to the address. In either case the sealed duplicate memorandum must accompany the notice.	,, 9.
Address for service.—If defendant appears by a solicitor, such	

ORDER.

solicitor must state in the memorandum his place of business, and, if appearance is in London, an address for service within three miles of the Royal Courts of Justice; if in the Registry, an address for service within the district . . . . . XII. 10.

Defendant appearing in person must similarly state an address for service, and his own address . . . . . ,, 11.

The memorandum cannot be received without the address; and if the address is illusory or fictitious the appearance may be set aside . . . . . ,, 12.

Appearance in case of particular defendants:—

1. *Partners.*—Partners sued in the name of their firm must appear individually in their own names; but all subsequent proceedings will continue in the name of the firm . . . . . ,, 15.

   A person carrying on business in the name of a firm must appear in his own name; but all subsequent proceedings will continue in name of the firm . . ,, 16.

2. *Infants.*—Infants appear by guardian *ad litem:* affidavit in prescribed form must be filed (App. A. Pt. II. No. 8) XVI. 18.

3. *In actions for recovery of land.*—(For summary of these rules, see section (3), note (*m*)) . . . . . XII. 25–29.

4. *Appearance by third party.*—(See Form 150) . . . XVI. 49.

5. *Appearance by party served with order to carry on proceedings.*—(See Form 187) . . . . . XVII. 5.

6. *Appearance by party served with notice of judgment or order.*—(See Form 171) . . . . . XVI. 41.

7. *Appearance to counterclaim.*—(See Form 406) . . . XXI. 13.

Miscellaneous provisions.—A solicitor not appearing pursuant to written undertaking is liable to attachment . . . . XII. 18.

Defendant may, without entering a conditional appearance, move to set aside service of writ, &c. . . . . ,, 30.

384.

Authority by defendant to solicitor to enter an appearance for him and defend.

[Dan. Pr. 346.]

(1.) *Ordinary Appearance.*

(*Short title and reference to the record.*)

I, the defendant A. B., of (*residence and addition*), authorize Mr. C. D., of (*place of business*), to appear to and defend this action on my behalf.

A. B.

385.

Memorandum of appearance (*b*).

[Dan. Pr. 347.]

188—. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

A. B. *v.* C. D., and others.

Enter an appearance for C. D. in this action.

Dated this —— day of ——, 188—.

X. Y., of ——,
Agent for —— of ——,
Solicitor for the Defendant,
whose address for service (*c*) is ——. [*Or*,

(*b*) See R. S. C. Ord. XII. 8, 13, 17; App. A. Part II. No. 1. As to the fee payable upon entering the appearance, see Form 150, note (*c*).

(*c*) See R. S. C. Ord. XII. 10; and note (*a*), *supra*. If this address be beyond three miles from the Royal Courts of Justice, an address for service within three miles thereof must be given. If appearance entered in District Registry, an address for service within the district must be given.

[*Or*, C. D.,
of —— (*d*),
Defendant in person.
The address for service (*cc*) of C. D. is —— (*d*.)]

If so, add: The said defendant requires a statement of claim to be delivered (*e*).

386.

Notice of appearance by a solicitor (*f*). [Dan. Pr. 348.]

(*Heading as in* Form 385.)

Take notice that I have this day entered an appearance at the Central Office, Royal Courts of Justice [*or*, at the office of the Registrar of the —— District Registry], for the defendant C. D. to the writ of summons in this action.

If statement of claim is required, add: The said defendant requires delivery of a statement of claim (*e*).

Dated the —— day of ——, 188—.

(Signed) X. Y., of ——,
Agent for ——, of ——,
Solicitor for the Defendant.

A sealed duplicate of the Appearance is annexed hereto.

To Mr. A. B., solicitor [*or*, agent], for the plaintiff [*or*, To the plaintiff A. B.]

387.

Notice of appearance in person. [Dan. Pr. 348.]

(*Heading as in* Form 385.)

Take notice that I, the defendant C. D., have this day entered an appearance in person at the Central Office, Royal Courts of Justice [*or*, at the office of the Registrar of the —— District Registry] to the writ of summons in this action.

If statement of claim required, add: And that I require delivery of a statement of claim (*e*).

Dated this —— day of ——, 188—.

(Signed) C. D., of ——,
Defendant in person.]

A sealed duplicate of the Appearance is annexed hereto.

388.

Affidavit in support of entry of appearance as guardian (*g*). [Dan. Pr. 349.]

(*Same as* Form 92.)

(*cc*) See note (*c*), *supra*.

(*d*) See R. S. C. Ord. XII. 11; and note (*a*), *supra*. A defendant in person may change his address for service (without order to change address) by leave of Master, but must forthwith give notice to the other side: Rules of Practice Masters, 1880, 1881, 1882.

(*e*) This note does not appear in the Form in R. S. C. App. A.; but it is printed in the official forms in use in the Central Office; and see R. S. C. Ord. XX. 1 (*b*). No further statement of claim can be required where writ is specially indorsed under R. S. C. Ord. III. 6; see Ord. XX. 1 (*a*); *G.* v. *H.*, W. N. (1883), 233.

(*f*) See R. S. C. Ord. XII. 9; App. A. Part II. No. 2. The notice must be accompanied by sealed duplicate of the memorandum of appearance.

(*g*) See R. S. C. Ord. XVI. 18; App. A. Part II. No. 8.

(2.) *Appearance after Judgment* (*h*).

389.
Petition of course, for leave to appear (*i*). [Dan. Pr. 351.]

Formal parts: see Form 39.

The humble petition of the defendant A. B.

Showeth as follows:

1. The plaintiff on the —— day of ——, 188—, issued his writ of summons in this action against your petitioner, who has never appeared thereto.

2. Judgment was given on the trial of this action on the —— day of ——, 188— (*j*), and thereby certain accounts and enquiries were directed to be taken and made; but the Chief Clerk has not yet made his certificate of the result thereof [*or as may be*].

3. Your petitioner is now desirous to enter an appearance in this action.

4. Your petitioner submits to be bound by the said judgment and the proceedings thereunder as if he had duly appeared in this action.

Your petitioner therefore humbly prays that he may be at liberty, notwithstanding the said judgment, to enter an appearance to the said writ of summons in this action.

390.
Notice of motion, or summons, for the like (*k*). [Dan. Pr. 351.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant A. B., that upon the said defendant submitting to be bound by the judgment given on the trial of this action on the —— day of ——, 188— [*or as may be*], and by the proceedings in this action, he may be at liberty (*Continue as in prayer of* Form 389, *to the end.*)

(*h*) See R. S. C. Ord. XII. 22; and note (*a*), *supra*. After judgment, appearance cannot be entered without leave: which may be obtained by petition of course, with consent of plaintiff; otherwise, the application must be by special motion or summons: see Dan. Pr. 351.

Rule of Practice Masters.—When a memorandum of appearance by a defendant is handed in without a previous search for judgment—for which search the proper fee (*i.e.*, 2*s.* 6*d.*: Ord. as to S. C. Fees, 1884, Sched. No. 46) should be taken—and it is afterwards found that judgment has been already signed, the appearance must not be entered in the Cause Book, and the stamp on the memorandum of appearance must be retained as a used stamp, and not treated as fit for allowance. The duplicate is not to be sealed, but the party who has handed in the memorandum, if he desires to know, at the time, whether judgment has been already signed, may be so informed without further payment. A note should, in such cases, be made in the Cause Book, that a memorandum of appearance was brought in after judgment signed, and the fee should be accounted for amongst the appearance fees: Additional Office Rules, March, 1884. In such cases the words "tendered after judgment" are written across the stamped memorandum of appearance: the unstamped copy being handed back to the solicitor without being sealed, and the officer at the same time informing him that his appearance is too late.

(*i*) See note (*g*). For form of consent (to be written at the foot of the petition), see Form 42.

(*j*) It is apprehended that after an order has been obtained under R. S. C. Ord. XV., no appearance can be entered without leave.

(*k*) See note (*g*). For form of order, see 2 Seton, 1627, No. 4.

391.

Memorandum of appearance.

(*Heading as in* Form 385.)

Enter an appearance for the defendant A. B. in this action, pursuant to order, dated the —— day of ——, 188—.

Dated (*Continue as in* Form 385, *to the end*).

392.

Notice of appearance (*l*). [Dan. Pr. 351.]

(*Heading as in* Form 385.)

Take notice that pursuant to the leave given by the order made in this action, dated the —— day of ——, 188—, I have (*Continue as in* Form 386, *to the end*).

(3.) *Appearance in Action for the Recovery of Land* (*m*).

(*m*) *Appearance in Action for the Recovery of Land.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Appearance by person in possession, though not a defendant.—Any person not named as defendant may, by leave, appear and defend, on filing an affidavit showing he is in possession of the land either by himself or his tenant	XII. 25.
Appearance as landlord.—Any person appearing to defend as landlord, in respect of property whereof he is in possession only by his tenant, must state in his appearance that he appears as landlord	,, 26.
Notice of appearance.—Where person not named as defendant has obtained leave to appear and defend, he must appear in the usual way, and give notice forthwith of such appearance, and in all subsequent proceedings he must be named as a defendant	,, 27.
Limiting defence to part of property.—A person appearing may limit his defence to part only of the property mentioned in the writ, describing such part with reasonable certainty in his memorandum of appearance, or in a notice intituled in the action and signed by him or his solicitor. Such notice must be served within *four days* after appearance. Where defence is not limited as above mentioned, the appearance will be deemed an appearance to defend for the whole	,, 28.
The notice must be in prescribed form (App. A. Pt. II. No. 3)	,, 29.

393.

Memorandum of appearance (as landlord), and statement limiting defence to part of property mentioned in writ (*n*). [Dan. Pr. 350, 352.]

(*Title and reference to the record.*)

Enter an appearance for the defendant C. D. (as landlord (*o*)) in this action [*If the defendant limits his defence to part only of the property mentioned in the writ, add:*

(*l*) See R. S. C. Ord. XII. 9.

(*n*) See R. S. C. Ord. XII. 26, 28, 29; App. A. Part II. No. 4; and note (*m*), *supra*.

(*o*) *Ibid.*, XII. 26; and note (*m*), *supra*.

The said defendant limits his defence to part only of the property mentioned in the writ of summons, namely, to the close called "The Big field" (*p*)—*or as may be*].

Dated (*&c.: Conclude as in* Form 386).

394.
Notice of appearance. [Dan. Pr. 354.]

(*See* Form 386.)

395.
Notice limiting defence to part of property mentioned in writ (*r*). [Dan. Pr. 350.]

(*Title and reference to the record.*)

Take notice that the above-named defendant C. D. limits his defence to part only of the property mentioned in the writ of summons, namely, to the close called "The Big field" [*or as may be*].

Dated (*&c.: Conclude as in* Form 386).

396.
Summons for further time to deliver notice limiting defence (*s*). [Dan. Pr. 350.]

Formal parts: see Form 43.

on the part of the defendant C. D., that the time (*t*) limited by the Rules of the Supreme Court, Ord. XII., rule 28, for the said defendant to serve a notice limiting his defence to part only of the property mentioned in the writ of summons in this action, may be enlarged to the —— day of ——, 188—;

If the time limited has already expired, add: notwithstanding that the time limited for giving such notice has expired;

and that the costs of this application may be costs in the action.

397.
Summons for further and better particulars of the property to which defence limited (*u*).

Formal parts: see Form 43.

on the part of the plaintiff, that the defendant C. D. may be ordered, within —— days, to deliver to the plaintiff's solicitor a statement in writing, containing further and better particulars of the property to which the said defendant C. D. limits his defence to this action; and that in default of such statement being so delivered the appearance entered for the said defendant to the writ of summons in this action may be deemed an appearance to defend for the whole of the property mentioned in the said writ.

(*p*) R. S. C. Ord. XII. 28, 29; App. A. Part II. No. 4; and note (*m*), *supra*.
(*r*) See *Ibid.*, XII. 28; App. A. Part II. No. 3.
(*s*) *Ibid.*, LXIV. 7.
(*t*) *Ibid.*, XII. 28.
(*u*) See R. S. C. Ord. XII. 28. The part of the property to which the defence is limited should be described with "reasonable certainty;" *Ibid.*

398.

Summons for leave for person not named as defendant to appear and defend before judgment (*r*). [Dan. Pr. 352.]

Formal parts: see Form 43.

on the part of A. B., that he may be at liberty to appear and defend this action [*If so:* as landlord of the above-named defendant C. D.]. [*If the applicant desires to limit his defence to a part only of the property mentioned in the writ, add:* for (*Here describe the part to which it is desired to limit the defence*) being a part of the property mentioned in the said writ of summons].

399.

Notice of motion or summons, for the like, after judgment (*v*). [Dan. Pr. 352.]

Formal parts: see Form 38 *or* 43.

on the part of A. B., that the judgment entered in this action for the above-named plaintiff may be set aside; and that the applicant may be at liberty (*Continue as in last form to the end*).

400.

Affidavit in support (*w*). [Dan. Pr. 352.]

Formal parts: see Form 6.

1. This action is brought to recover possession of (*Here describe the premises as in the indorsement of claim on the writ of summons*).

2. I am in possession of the said premises [*or*, of ——, being a part of the said premises] by myself [*or*, by the above-named defendant C. D. as my tenant].

If judgment has been signed against the person named as defendant in the writ of summons, add:

3. On the —— day of ——, 188—, judgment was entered in this action for the above-named plaintiff. I was not aware that this action had been brought for the recovery of the said premises of which I am so in possession as aforesaid, until the —— day of ——, 188— (*Or state other circumstances explaining or excusing the delay in making the application*).

401.

Memorandum of appearance (*x*). [Dan. Pr. 352.]

(*Title and reference to the record.*)

Enter an appearance for A. B. (*If so*: as landlord (*y*)) in this action, pursuant to order dated —— day of ——, 188—.

Dated (*&c.: Continue as in* Form 385, *to the end*).

(*v*) See R. S. C. Ord. XII. 25. For form of order, see 2 Seton, 1626, No. 2 The application is *ex parte*, if before judgment, but after judgment it is made by motion or summons with notice to the plaintiff: see Dan. Pr. 352.

(*w*) See R. S. C. Ord. XII. 25.

(*x*) *Ibid.*, XII. 27.

(*y*) *Ibid.*, XII. 26. Notice of appearance must be given forthwith: *Ibid.*, XII. 27; see note (*m*), *supra*. For form of notice, see Form 386.

(4.) *Appearance by Parties added to the Proceedings.*

402. Memorandum of appearance by third party served with notice (*a*). [Dan. Pr. 352.]

(*Same as* Form 150.)

---

403. Notice of motion or summons for leave to appear after time expired (*b*). [Dan. Pr. 352.]

(*Same as* Form 151.)

---

404. Memorandum of appearance by party added by order to continue proceedings (*c*). [Dan. Pr. 353.]

(*Same as* Form 157.)

---

405. Memorandum of appearance by party served with notice of judgment or order (*d*). [Dan. Pr. 353.]

(*Same as* Form 171.)

---

406. Memorandum of appearance by party added by counterclaim (*dd*). [Dan. Pr. 353.]

18—. B. No.

In the High Court of Justice,
Chancery Division.

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant.
(by original action.)

And between the said C. D. . . Plaintiff,
and
the said A. B. and E. F. Defendants.
(by counterclaim.)

(*a*) See R. S. C. Ord. XVI. 49 ; App. A., Part II., No. 5.
(*b*) *Ibid.*
(*c*) *Ibid.*, XVII. 5 ; App. A., Part II., No. 6.
(*d*) *Ibid.*, XVI. 40.
(*dd*) *Ibid.*, XXI. 12, 13 ; App. A., Part II., No. 7.

Enter an appearance for E. F. to the counterclaim of the above-named defendant C. D. in this action.

Dated the —— day of ——, 188—.

(Signed) ——,
of (*e*) ——.
Agent for ——,
of ——.

(5.) *Proceedings to set aside Irregular Appearance.*

(*a.*) *At the instance of the Defendant.*

407.

Request of solicitor of defendant that appearance entered by him for a defendant may be withdrawn (*a*). [Dan. Pr. 354.]

(*Short title and reference to the record.*)

I hereby request that the appearance entered by me on the —— day of ——, 188—, for the defendant C. D., as his solicitor [*or*, agent], may be withdrawn, such appearance having been entered by mistake.

Dated this —— day of ——, 188—.

(Signed) X. Y.
of, *&c.*

408.

Consent of plaintiff to withdrawal. [Dan. Pr. 354.]

(*Short title and reference to the record.*)

I consent to the appearance entered in this action for the defendant C. D. being withdrawn.

Dated this —— day of ——, 188—.

G. H.,
of, *&c.*,
Plaintiff's solicitor [*or*, agent].

409.

Notice of motion or summons for withdrawal of appearance (*b*). Dan. Pr. 354.]

Formal parts : see Form 38 *or* 43.

on the part of the defendant E. F., that the appearance entered in his name in this action by mistake may be withdrawn, and such appearance may be struck out of the Cause Book kept at the Central Office [*or*, by the Registrar of the District Registry at ——].

(*e*) If this address be beyond three miles from the Royal Courts of Justice, an address for service within three miles thereof must be given.

(*a*) If a solicitor has caused an appearance to be entered by mistake, the mistake may be rectified, with the consent in writing of the solicitor for the plaintiff, and on the fiat (on the production of such consent) of a Practice Master to be given on a præcipe with a 2*s.* 6*d.* (search) stamp : Rules of Practice Masters : 1880, 1881, 1882.

(*b*) A special order is required, where any proceeding has been taken in the action : Dan, Pr, 354,

410.
Notice of motion or summons to set aside unauthorized appearance (*c*). [Dan. Pr. 354.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant C. D., that the appearance entered on behalf of the applicant, and all subsequent proceedings in this action as against the applicant, may be set aside as irregular on the ground (*d*) that Mr. X. Y., the solicitor who entered such appearance, acted without any authority from the applicant.

And that the said X. Y. may be ordered to pay the costs of the applicant of this application, and consequent thereon: such costs to be taxed as between solicitor and client (*e*).

411.
Affidavit in support. [Dan. Pr. 354, 355.]

Formal parts: see Form 6.

1. I have not been served with the writ of summons in this action, nor have I given instructions for any appearance to be entered therein on my behalf.

2. On the —— day of ——, 188—, an appearance was entered on my behalf by Mr. X. Y., of ——, solicitor. The plaintiff has acted on such appearance (*State shortly the steps taken by plaintiff in the action*).

3. I have never given any retainer in this action to the said X. Y., nor have I in any other manner, either by myself or any agent, authorized him to act as my solicitor in this action; and the said appearance was entered by him on my behalf without any authority from me.

(*b.*) *At the instance of the Plaintiff.*

412.
Notice of motion or summons to set aside an appearance. [Dan. Pr. 355.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff, that the appearance entered for the defendant A. B. to the writ of summons in this action may be set aside, on the ground that (*Here specify the irregularity on the ground of which it is sought to have the appearance set aside* (*f*)*; as:*

the address for service stated in the memorandum of the said appearance is illusory and fictitious (*g*); *Or,*

the said appearance was entered by and in the name of X. Y., who

(*c*) This application can be made, where the plaintiff, without having served the defendant with process, has accepted the appearance of the unauthorized solicitor. For practice where defendant has been served, and a solicitor appears for him without authority, see Dan. Pr. 355.

(*d*) See R. S. C. Ord. LXX. 3.

(*e*) See Dan. Pr. 354, and note (*g*).

(*f*) See R. S. C. Ord. LXX. 3. The plaintiff must take no step in the action before making the application: R. S. C. Ord. LXX. 2.

(*g*) See R. S. C. Ord. XII. 12; *A.* v. *B.*, W. N. (1883), 174; *Edell* v. *Cave*, 33 W. R. 208. If the defendant has appeared in person, the notice of motion or summons should be served on him personally; if he defends by a solicitor, then service should be on such solicitor: see Dan. Pr. 355.

is neither the defendant nor a solicitor of the Supreme Court of Judicature (*h*)) ;

And that the said appearance may be struck out of the cause book (*i*) kept at the Central Office [*or*, by the Registrar of the District Registry at ——] accordingly. And that the plaintiff may be at liberty to proceed in the same manner as if the said defendant A. B. had failed to appear to the writ of summons in this action ; and that the said defendant A. B. may be ordered to pay to the plaintiff the costs of this application.

413.

Affidavit in support. [Dan. Pr. 355.]

Formal parts : see Form 6.

1. On the —— day of ——, 188—, the writ of summons in this action was regularly issued out of the Chancery Division of this honourable Court against the above-named defendant A. B. at the suit of the above-named plaintiff ; and the said writ was duly served on the said defendant A. B. on the —— day of ——, 188—.

2. *Here state the entry of an appearance for the defendant, and show how the same is irregular ; as thus :* On the —— day of ——, 188—, a memorandum of appearance for the said defendant was delivered to the proper officer at the Central Office [*or*, to the Registrar of the District Registry at ——], which memorandum purported to be signed by X. Y. as solicitor for the said defendant A. B. [*or*, by the said A. B. the defendant in person], and contained a statement that the address for service of the said X. Y. [*or*, of the said A. B.] is at No. 55, in —— Street, in the city of ——

3. The said address for service is illusory and fictitious. There is but one street in the said city of ——, named —— Street. There is no house in the said —— Street, numbered 55. There are forty houses only in the said street, which are numbered from 1 to 40 inclusively.

Section II.—Proceedings in Default of Appearance (*a*).

(*Dan. Pr.*, pp. 356—364, cccliii.—cclv.)

(*a*) *Proceedings in default of Appearance.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
The affidavit of Service.—Where defendant fails to appear, and plaintiff desires to proceed upon default of appearance, he must, before taking such proceedings, file an affidavit of service of the writ, or of notice thereof	XIII. 2.
Judgment in default of appearance in particular actions :—	
A. *Liquidated demand.*—Final judgment may be entered for any sum not exceeding the sum endorsed on the writ with interest at the rate specified, or (if no rate	

(*h*) See R. S. C. Ord. XII. 8.
(*i*) *Ibid.*, V. 13 ; XII. 14.

ORDER.

specified) at the rate of five per cent. per annum to the date of judgment, and costs . . . . . XIII. 3.

Such judgment may be entered, and execution issued, against defendants in default, without prejudice to the right of plaintiff to proceed against defendants who have appeared . . . . . ,, 4.

B. *Detention of goods and pecuniary damages or either of them.*—Interlocutory judgment may be entered, and a writ of inquiry issued to assess the value of the goods and damages. But the value and amount of damages may be ascertained in any way (other than by writ of inquiry) which the Court or a Judge may direct . . . . . ,, 5.

Interlocutory judgment may be signed against defendants in default, and the value and damages assessed against such defendants at the same time as the trial of the action against those who have appeared. Such value or damages may be ascertained in any way (other than by writ of inquiry or trial) which the Court or a Judge may direct . . . . . ,, 6.

C. *Detention of goods and pecuniary damages or either of them, and liquidated demand.*—Final judgment may be entered for the liquidated demand, and interlocutory judgment for the value of the goods and damages . . . . . ,, 7.

D. *Recovery of Land.*—If no appearance, or appearance limited to part only, judgment may be entered that person whose title is asserted in the writ shall recover possession of the land, or of the part thereof to which the defence does not apply . . . . . ,, 8.

Where claim endorsed for mesne profits, &c., judgment may be entered for recovery of the land; and plaintiff may proceed as in preceding rules as to the other claims endorsed on the writ . . . . . ,, 9.

Setting aside judgment.—Any judgment under the preceding rules may be set aside or varied upon such terms as may be just . . . . . ,, 10.

Action in District Registry.—Time for entering judgment.—Where defendant had option of appearing either in the Registry or in the Central Office, judgment must not be entered by plaintiff until after such time as a letter posted in London on the previous evening, in due time for delivery to him on the following morning, ought, in due course of post, to have reached him . . . . . ,, 11.

Default of appearance in other actions.—In actions not otherwise specially provided for, upon filing an affidavit of service, and (except in cases within Ord. III. 6) a statement of claim, action may proceed as if defendant had appeared, subject, as to actions where an account is claimed, to provisions of Ord. XV. . . . . ,, 12.

Claim on a bond.—Where writ endorsed with claim on a bond within 8 & 9 Will. III. c. 11, and defendant fails to appear, no statement of claim is to be delivered, but plaintiff may deliver a suggestion of breaches, and proceed as mentioned in that statute, and 3 & 4 Will. IV. c. 42, s. 16 . . . . . ,, 14.

Default of appearance by infant or person of unsound mind.—Plaintiff, before proceeding, must apply for an order for the assignment of a guardian for the defendant. It must be shown that the writ was duly served, and that *six clear days* notice of the application has been given to the person with whom or under whose care the defendant is, and also (in the case of an infant defendant) if such person is not the father or guardian, to such father or guardian . . . . . ,, 1.

	Order.
Where writ endorsed with claim for an account.—Order may be made for the account claimed with all proper inquiries and directions	XV. 1.
Delivery of pleadings where no appearance entered for defendant.—Such delivery is by filing with the proper officer . . .	XIX. 10.
Service of proceedings not requiring personal service.—Such service is effected by filing with the proper officer . . .	LXVII. 4.

(1.) *The Affidavit of Service.*

414.

Affidavit of service of writ of summons (*b*).

[Dan. Pr. 356.]

Formal parts: see Form 6.

1. I did on ——day, the —— day of ——, 188—, serve the above-named defendant A. B. [*or*, each of the above-named defendants A. B. and C. B. his wife—*or as may be*] (*bb*) with the writ of summons in this action, which appeared to me to have been regularly issued out of the Central Office of the Supreme Court of Judicature against the above-named defendants at the suit of the above-named plaintiff, and which was dated on the —— day of ——, 188—, by (*Here describe the mode of service, as thus:*

Where personal service effected.

If the service was personal: delivering a true copy of the said writ of summons to, and leaving the same with, the said defendant A. B. personally, at (*State where*), in the county of ——, and the said defendant C. B. personally, at (*State where*); *Or,*

Where husband and wife are defendants and special service is directed on one of them (*c*).

delivering a true copy of the said writ of summons to, and leaving the same with, the defendant A. B. [*or*, C. B.] personally, at (*State where*), in the county of ——, and I at the same time served the defendant A. B. [*or*, C. B.] with the order made in this action, dated the —— day of ——, 188—, now produced and shown to me and marked X., by delivering a true copy of the said order to, and leaving the same with, the defendant A. B. [*or*, C. B.], and showing to him [*or*, her] the said original order, duly passed and entered.

Where defendant is an infant (*d*),

If the defendant served was an infant, and no order has been made for service on the infant personally: delivering a true copy of the said writ of summons to, and leaving the same with, C. B., the father [*or*, the guardian] of the said defendant A. B., who is an infant under the age of twenty-one years, at (*State where*), in the county of ——.

(*b*) See R. S. C. Ord. XIII. 2; and note (*a*), *supra.*

(*bb*) Affidavits of service must state when, where, and how and by whom such service was effected: see R. S. C. Ord. LXVII. 9.

(*c*) Husband and wife, when defendants, are both to be served unless otherwise ordered: R. S. C. Ord. IX. 3.

(*d*) As to service on an infant, see R. S. C. Ord. IX. 4, and Forms 88—90. As to the plaintiff's proceedings, where an infant defendant does not appear, see R. S. C. Ord. XIII. 1, and Form 94.

If such infant defendant has no father or guardian: delivering a true copy of the said writ of summons to, and leaving the same with, C. D., the person with whom the said defendant A. B. then resided [*or*, the person under whose care the said defendant A. B. then was], at (*State where*), in the county of ——: the said defendant A. B. being an infant under the age of twenty-one years, and having no father or guardian.

If the defendant served was a lunatic, and no special order as to service has been made: delivering a true copy of the said writ of summons to, and leaving the same with, C. D., the committee of the said defendant A. B., who is a lunatic, so found by proceedings in lunacy, at (*State where*). Where defendant is a lunatic (*e*).

If the defendant served was a person of unsound mind, but not so found by inquisition, and no special order as to service has been made: delivering a true copy of the said writ of summons to, and leaving the same with, C. D., at (*State where*): the said defendant A. B. being a person of unsound mind not so found by inquisition, and the said C. D. being the person with whom the said defendant A. B. then resided [*or*, the person under whose care the said defendant A. B. then was]. Where defendant is a person of unsound mind not so found by inquisition (*ee*).

Where the defendants are sued as partners in the name of their firm: delivering a true copy of the said writ of summons to, and leaving the same with, A. B., a partner in the said defendant firm of ——, at —— (*State where*); *Or*, Where defendants are copartners sued in their firm name (*f*).

delivering a true copy of the said writ of summons to, and leaving the same with, C. D., at (*State where*), being the principal place within the jurisdiction of this honourable Court of the business of the partnership of the said defendants (*Name them as in writ*), and the said C. D. having, at the time of such service, the control or management of the said partnership business at (*Place of service*) aforesaid.

Where defendant is sued in a firm name, and is not served personally: delivering (*Proceed as in last paragraph to* Court) of the business carried on by the said defendant A. B. in the name of the defendant firm of (*Name as in writ*), and the said C. D. having, at the time of such service, the control or management of the said business at (*Place of service*) aforesaid. Where defendant is sued in a firm name (*ff*).

(*e*) As to service on a lunatic, see R. S. C. Ord. IX. 5; and Forms 115, 116.

(*ee*) As to service on a person of unsound mind not so found by inquisition, see R. S. C. Ord. IX. 5; and Forms 115, 116. As to the plaintiff's proceedings where a defendant who is a person of unsound mind does not appear, see R. S. C. Ord. XIII. 1; Form 130.

(*f*) See R. S. C. Ord. IX. 6; and note (*a*), at p. 140.

(*ff*) *Ibid.*, IX. 7; and note (*a*), at p. 140.

Where defendants are a corporation aggregate (*g*).

If the defendants served were a corporation aggregate: delivering a true copy of the said writ of summons to, and leaving the same with, C. D., being the mayor [*or as may be*] of the said defendants, the ——, at (*State where*); *Or*,

delivering a true copy of the said writ of summons to, and leaving the same with, C. D., being the head officer [*or*, town clerk; *or*, clerk; *or*, treasurer; *or*, secretary] of the said defendants, the —— at (*State where*).

Where defendants are the inhabitants of a hundred, or like district (*g*).

If the defendants served were the inhabitants of a hundred or other like district: delivering a true copy of the said writ of summons to, and leaving the same with, C. D., being the High Constable [*or*, one of the High Constables] of the said hundred [*or*, district] of ——; *or*, being the acting chief officer of police of the county of ——, in which the said hundred [*or*, district] is situate, there being no High Constable thereof], at (*State where*).

Where defendants are the inhabitants of any county of any city or town, or of any franchise, liberty, city, town, or place, not being part of a hundred or other like district (*g*).

If the defendants served were the inhabitants of any county of any city or town, &c.: delivering a true copy of the said writ of summons to, and leaving the same with, C. D., being one of the peace officers of the said county of the town of [*or as may be*], at (*State where*).

Where defendants are a limited company (*h*).

If the defendants served were a limited company, incorporated under the Companies Act, 1862: leaving a true copy of the said writ of summons at the registered office of the defendants, the said A. B. Company, Limited, situate at ——, with a clerk [*or*, servant] of the said defendant Company; *Or*,

putting into the post-office receiving-house, situate at No. —, in —— Street, in the (city) of ——, a letter, duly addressed to the said defendants, "The A. B. Company, Limited," at their registered office, situate at ——, such letter having the proper postage-stamp affixed thereto as a pre-paid letter, and containing, at the time of the same being posted as aforesaid, a true copy of the said writ of summons (*i*).

2. At the time of the said service the said writ and the copy [*or*, each

(*g*) R. S. C. Ord. IX. 8; and note (*a*), at p. 140. As to service on a foreign corporation having place of business within the jurisdiction, see *Newby* v. *Van Oppen*, L. R. 7 Q. B. 293: 20 W. R. 383; *Palmer* v. *Gould's Manufacturing Co.*, W. N. (1884), 63.

(*h*) See R. S. C. Ord. IX. 8; the Companies Act, 1862 (25 & 26 Vict. c. 89), s. 62, and note (*a*), at p. 140.

(*i*) See 25 & 26 Vict. c. 89, s. 62; *White* v. *Land and Water Co.*, W. N. (1883), 174.

of the copies] thereof so delivered and left [*or*, so left; *or*, so sent by post] as aforesaid, were subscribed and indorsed in the manner and form prescribed by the Rules of the Supreme Court.

3. I did afterwards, namely, on —— day, the —— day of ——, 188—, indorse on the said writ the day of the month and week of the said service (*j*).

[The above form can be used in the case of service on a British subject out of the jurisdiction, or on a foreigner out of the jurisdiction, but within the British Dominions.]

415.

Affidavit of service of writ of summons in action for the recovery of land in case of vacant possession (*k*). [Dan. Pr. 360.]

Formal parts: see Form 6.

1. (*Show what efforts have been made to serve the defendant personally, and that he keeps out of the way to evade service of the writ, or that for some other reason personal service cannot be effected.*)

2. I did on —— day, the —— day of ——, 188—, post a true copy of the writ of summons in this action, which appeared to me to have been regularly issued out of the Central Office of the Supreme Court of Judicature, against the said defendant A. B., at the suit of the above-named plaintiff, and was dated on the —— day of ——, 188—, upon the outer door of the dwelling-house (*State where*), for the recovery whereof this action is brought (*or, state the posting of a copy of the writ of summons upon some other conspicuous part of the property*).

3. At the time of posting the said copy of the said writ of summons in manner aforesaid the possession of the property in the indorsement on the said writ of summons mentioned, and for the recovery whereof this action is brought, was vacant: neither the said defendant A. B., nor any other person or persons being then, to the best of my knowledge and belief, in or upon the said property, or any part thereof.

4. At the time of the posting of the said copy writ in manner aforesaid memoranda were subscribed to the said writ of summons, and to the copy thereof so posted as aforesaid; and indorsements were made on the said writ, and on the said copy thereof, in the manner and form prescribed by the Rules of the Supreme Court.

5. I did afterwards, namely, on —— day, the —— day of ——, 188—, indorse on the said writ of summons the day of the month and week of the service thereof in manner aforesaid (*l*).

416.

Affidavit of service of writ of summons where order made for substituted or other service, or for the substitution of notice for service (*m*), [Dan. Pr. 356.]

Formal parts: see Form 6.

1. I did on —— day, the —— day of ——, 188—, serve the above-named defendant A. B., with the writ of summons in this action, which

(*j*) See R. S. C. Ord. IX. 15; and Form 376. This paragraph in the affidavit must be repeated if there were several services and the indorsements of service were not all made on the same day.

(*k*) See R. S. C. Ord. IX. 9.

(*l*) See R. S. C. Ord. IX. 15; and note (*j*), *supra*.

(*m*) *Ibid.*, IX. 2.

appeared to me to have been regularly issued out of the Central Office of the Supreme Court of Judicature, against the above-named defendants at the suit of the above-named plaintiff, and was dated on the —— day of ——, 188—, together with a true copy of the order dated the —— day of ——, 188—, authorising service of the said writ by (*Here describe the mode in which the service was effected, which should be in strict accordance with the terms of the order permitting service other than personal service*).

2. At the time of the said service of the said writ of summons and order, the said writ, and the copy [*or*, each of the copies thereof] so delivered [*or*, sent ; *or as the case may be*] as aforesaid were subscribed and indorsed in the manner and form prescribed by the Rules of the Supreme Court.

3. (*Prove indorsement on the writ of the time of service: as in* Form 414, par. 3 (*n*).)

417.

Affidavit of service of notice of a writ of summons on a foreign subject out of British Dominions (*o*). [Dan. Pr. 356.]

Formal parts: see Form 6.

1. I did on —— day, the —— day of ——, 188—, serve the above-named defendant A. B., who is not a British subject, with a notice of the writ of summons in this action, which writ appeared to me to have been regularly issued out of the Central Office of the Supreme Court of Judicature against the above-named defendant at the suit of the above-named plaintiff, and was dated on the —— day of ——, 188—, by delivering the said notice to, and leaving the same with, the said defendant A. B., personally, at ——, in the (kingdom) of ——, out of British dominions [*or, as may be ; see* Form 414 ; *or, if substituted service of the notice has been allowed, see* Form 416].

2. At the time of the service of the said notice, the said writ and the said notice (*p*) appeared to be subscribed and indorsed in the manner and form prescribed by the Rules of the Supreme Court.

3. The said notice at the time of the service thereof purported to be signed, and was, as I am informed and verily believe, signed by ——, of (*residence and addition*), the above-named plaintiff [*or*, by ——, of (*residence*), the solicitor for the above-named plaintiff]. A true copy of the said notice is now produced and shown to me and marked A.

4. I did afterwards, namely, on —— day, the —— day of ——, 188—, indorse on the said writ of summons the day of the month and week of the service of the said notice.

418.

Another form of the affidavit of service (*q*). [Dan. Pr. 356, and note (*x*).]

Formal parts: see Form 6.

1. On the —— day of ——, 188—, I duly served the above-named

(*n*) Such indorsement is now required in the case of substituted service : see R. S. C. Ord. IX. 15. This rule renders *Dymond* v. *Croft*, 3 Ch. D. 512 : 24 W. R. 843, obsolete.

(*o*) See R. S. C. Ord. XI. 6, 7 ; Forms 374, 375 ; and note (*a*), at p. 144.

(*p*) See R. S. C. Ord. IV.

(*q*) See *Bustros* v. *Bustros*, 14 Ch. D. 849 ; Ann. Pr. 158. The use of this form is not recommended.

defendant C. D. with the writ of summons [*or*, notice of the writ of summons] in this action, a true copy of which is produced and shewn to me marked A.

2. Such service was effected by (*Show mode of service*).

3. I did afterwards on ——, the —— day of ——, 188—, indorse on the said writ [*or as the case may be*] the day of the month and week of the service thereof.

(2.) *Proceedings where no Appearance entered for Infant or Person of unsound mind.*

(*See* Forms 94 *and* 130.)

419. Notice of motion or summons for assignment of a guardian ad litem (*r*). [Dan. Pr. 356—357.]

(3.) *Proceedings in Default of Appearance to a Writ indorsed for a Liquidated Demand* (*s*).

(*Title and reference to the record.*)

The —— day of ——, 188—.

The defendants [*or*, The defendant C. D.] not having appeared to the writ of summons herein, it is this day adjudged that the plaintiff recover against the defendants [*or*, the said defendant C. D.] £——, and costs to be taxed [*or, where the costs are fixed*, £—— costs].

(*In case of taxed costs:* The above costs have been taxed and allowed at £——, as appears by a Taxing Officer's certificate dated this —— day of ——, 188—.)

420. Final judgment, where action for a liquidated demand, whether writ specially indorsed or otherwise (*t*). [Dan. Pr. 358.]

(*r*) See R. S. C. Ord. XIII. 1.

(*s*) See R. S. C. Ord. XIII. 3, 4; and note (*a*), *supra*.

(*t*) For this form, see R. S. C. App. F., No. 1; 1 Seton, 7, No. 1. For practice on entering judgments, see Dan. Pr. 358; R. S. C. Ord. XLI. 6; 1 Seton, 12, 13. As to entry in District Registry, see R. S. C. Ord. XXXV. 1; 1 Seton, 14. As to the time for entering judgment in default of appearance to writ issued from District Registry, where defendant can appear either in the Registry or in London, see R. S. C. Ord. XIII. 11. As to date of judgment, see R. S. C. Ord. XLI. 4. The documents to be left on entering judgment are:—(1) The writ of summons; (2) the affidavit of service; (3) two forms of judgment: see 1 Seton, 13. It seems that a certificate of non-appearance is no longer required. For short summary of the result of the rules as to judgments for default of appearance, see Ann. Pr. 162. A fee of 10*s.* is payable on entering judgment: see Ord. as to S. C. Fees, 1884, Sched. No. 58. In addition to this fee, the proper fee at the rate of 2*d.* per folio has to be paid for marking one of the forms of judgment as an office copy.

(4.) *Proceedings in Default of Appearance in an Action for the Recovery of Goods and Damages, or either of them (u).*

421.

Interlocutory judgment for recovery of value of goods, and damages for their detention (v). [Dan. Pr. 359.]

(*Title and reference to the record.*)

—— day of ——, 188— (*Date of entering judgment*).

No appearance having been entered to the writ of summons for the defendant [*or, if only one or some of several defendants are in default, say:* for the defendant C. D., *or*, for the defendants G. H. and M. N.] herein, it is this day adjudged that the plaintiff recover against the defendant [*or*, against the defendant C. D.—*or*, against the defendants G. H. and M. N.] the value of the goods [*or*, damages, *or both, as the case may be:*] to be assessed (*w*).

422.

Motion paper, for liberty to enter judgment for default of appearance for recovery of specific chattels (*x*). [Dan. Pr. 360.]

Formal parts: see Form 36.

To move on behalf of the plaintiff, that he may be at liberty to enter judgment for want of appearance for the recovery of the chattels mentioned in the indorsement of claim on the writ of summons in this action [*If so:* and for damages for the detention thereof: such damages to be assessed].

423.

Summons for like purpose (*x*). [Dan. Pr. 360.]

Formal parts: see Form 43.

on the part of the plaintiff, that he may be at liberty (*Continue as in* Form 422 *to the end*).

424.

Final judgment for recovery of specific chattels, and interlocutory judgment for the recovery of damages for their detention.

(*Title and reference to the record.*)

—— day of ——, 188— (*date*).

The defendants not having appeared to the writ of summons herein, it is this day adjudged that the plaintiff recover against the defendants

(*u*) See R. S. C. Ord. XIII. 5, 6. These rules do not apply where an injunction is claimed, but plaintiff must proceed under the provisions of R. S. C. Ord. XIII. 12: *Part* v. *Griffiths*, 28 Sol. J. 339. In an action proceeding in the District Registry, interlocutory judgment must be entered in the Registry: see R. S. C. Ord. XXXV. 2.

(*v*) For this form, see R. S. C. App. F., No. 2; see also 1 Seton, 7, No. 3. The form in the text is applicable (1) where the defendant, or all the defendants, if more than one, fail to appear (R. S. C. Ord. XIII. 5), or (2) where there are several defendants, of whom some or one fail to appear (*Ibid.*, 6). In the first case the value of the goods and damages will be assessed by writ of inquiry, or in such other way as the Court may direct; in the second case, they will be assessed at the same time as the trial of the action or issue therein against the defendants who appear, unless the Court otherwise direct.

(*w*) If the writ is indorsed with a claim for detention of goods and damages, or either of them, and for a liquidated demand, plaintiff may enter final judgment for the liquidated demand, and interlocutory judgment as above for the value of the goods and damages: see R. S. C. Ord. XIII. 7.

(*x*) See *Ivory* v. *Cruickshank*, W. N. (1875), 249, where Quain, J., doubted whether judgment for the return of specific chattels might not be entered without an order.

the following chattels, that is to say (*Here enumerate the chattels as in the indorsement of claim on the writ of summons*).

If damages are claimed for the detention of the goods, add: and also damages for the detention thereof: such damages to be assessed;

And costs to be taxed (*y*).

425.
Notice of motion or summons to have value of goods or damages ascertained otherwise than by writ of enquiry (*z*). [Dan. Pr. 360.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff, that the value of the goods and the amount of the damages [*or*, that the amount of the damages] which the plaintiff is entitled to recover against the defendants may be ascertained (*Here specify the mode in which it is desired that the value or damages should be ascertained; as thus* (*a*):

before a Judge [*or*, Judges] without a jury; *or*,
before a Judge sitting with assessors; *or*,
before a Judge and jury; *or*,
before an official referee; *or*,
before an official referee with assessors; *or*,
before a special referee; *or*,
before a special referee with assessors; *or*,
by an inquiry in Chambers before the Chief Clerk).

(5.) *Proceedings in Default of Appearance in an Action for the Recovery of Land* (*aa*).

426.
Judgment for recovery of whole of land mentioned in writ (*b*). [Dan. Pr. 360.]

(*Title and reference to the record.*)

—— day of ——, 188—.

No appearance having been entered to the writ of summons herein, it

(*y*) The judgment for costs should be entered only in case the judgment is a final one, *i.e.*, for the recovery of chattels only without damages.

(*z*) See R. S. C. Ord. XIII. 5, 6, 7; *Macdonald* v. *Antelme, Patterson & Co.*, W. N. (1884), 72. The notice of motion or summons may be served by being filed at the Central Office, or with the District Registrar: R. S. C. Ord. LXVII. 4. As to proceedings under writ of inquiry, see Dan. Pr. 731—784; Chitty's Forms, 672—679. For form of judgment after assessment of damages, see R. S. C. App. F., No. 4.

(*a*) See R. S. C. Ord. XXXVI. 2.

(*aa*) See R. S. C. Ord. XIII. 8. Judgment can be entered under this rule only in cases (1), where no defendant appears; (2), where defence is limited to part only. If, therefore, some of the defendants appear, and some do not, the plaintiff must, upon filing an affidavit of service, and, where necessary, a statement of claim, proceed as if all the defendants had appeared: see R. S. C. Ord. XIII. 12. In such case, the proceedings not requiring personal service will be filed against the defendants in default in the Central Office, or with the District Registrar: R. S. C. Ord. XIX. 10; LXVII. 4. A writ can be specially indorsed under R. S. C. Ord. III. 6, in an action for the recovery of land by a landlord against a tenant whose term has expired. In such case, in default of appearance, the judgment will be entered as in Form 426. If the defendant appears, the plaintiff can in such case apply for judgment under Ord. XIV.

(*b*) See R. S. C. Ord. XIII. 8; App. F., No. 3; 1 Seton, 7, No. 2.

is this day adjudged that the plaintiff recover possession of the land in the indorsement on the writ described as (*Describe the property as in the indorsement on writ*).

427.

Judgment for the recovery of part of the land mentioned in the writ (*c*). [Dan. Pr. 360.]

(*Title and reference to the record.*)

—— day of ——, 188—.

The defence of the defendants, who have appeared to the writ of summons herein, being limited to (*Here describe the part of the property to which the defence is limited*), part of the land in the indorsement on the said writ mentioned, it is this day adjudged that the plaintiff recover possession of (*Here describe the property to which the defence does not extend*), being the residue of the land in the said indorsement mentioned.

428.

Final judgment for the recovery of land, and of liquidated amount for arrears of rent (*d*). [Dan. Pr. 361.]

(*Title and reference to the record.*)

—— day of ——, 188—.

No appearance having been entered to the writ of summons herein, it is this day adjudged that the plaintiff recover possession of the land in the indorsement on the writ described as (*Describing the property as in the indorsement*), and also £—— in the said indorsement claimed for arrears of rent, and £—— for costs.

429.

Final judgment for land, and interlocutory judgment for mesne profits, or damages for breach of contract (*e*). [Dan. Pr. 361.]

(*Title and reference to the record.*)

—— day of ——, 188—.

No appearance having been entered to the writ of summons herein, it is this day adjudged that the plaintiff recover possession of the land in the indorsement on the said writ described as (*Describing the property as in the indorsement*); and it is also adjudged that the plaintiff recover against the defendant damages to be assessed.

(*c*) See R. S. C. XIII. 8. As to limiting defence to part, see R. S. C. Ord. XII. 28; and Forms 393—395. On entering the judgment, in addition to the documents required in other cases (see Form 420, note (*t*)), the notice limiting the defence, or the certificate of the entry of a limited appearance, must be produced: see 1 Seton, 13.

(*d*) See R. S. C. Ord. XIII. 9. For form in the text, see Chitty's Forms, 12 Ed. 591. If some of the defendants to the writ appear, and some do not, the plaintiff must proceed, as pointed out in note (*a*), in respect of the claims for recovery of the land. But he may enter final judgment in respect of the liquidated amount against such of the defendants as have not appeared: R. S. C. Ord. XIII. 4.

(*e*) See R. S. C. Ord. XIII. 9, 5, 6, 7. If some of the defendants appear, and some do not, the plaintiff must proceed, as pointed out in note (*a*), in respect of the claim for recovery of the land. But he may enter interlocutory judgment against such of the defendants as have not appeared in respect of the other causes of action.

(6.) *Proceedings in Default of Appearance where the Writ of Summons is indorsed with a Claim for an Account under R. S. C. Ord. III., rule* 8 (*f*).

430.

Formal parts: see Form 43.

Summons for order for the account (*g*). [Dan. Pr. 362.]

on the part of the plaintiff, that an account may be taken of (*Here specify the account required in accordance with the indorsement on the writ; as for instance:*

of the partnership dealings and transactions between the plaintiff and defendant under the articles of partnership in the indorsement on the writ of summons [*or*, in the pleadings] in this action mentioned, with all necessary and proper directions. Partnership.

Or, for the usual order to administer the [real and] personal estate Administration (*h*).

(*f*) *Claim for an account.*—In all cases in which the plaintiff, in the first instance, desires to have an account taken, the writ of summons must be indorsed with a claim that such account be taken: R. S. C. Ord. III. 8. For forms of indorsement, see Forms 328—331.

(*g*) *Application for an account.*—Where a writ of summons has been indorsed for an account, under Ord. III., rule 8, *or where the indorsement on a writ of summons involves taking an account*, if the defendant either fails to appear, or does not after appearance, by affidavit or otherwise, satisfy the Court or a Judge that there is some preliminary question to be tried, an order for the proper accounts, with all necessary inquiries and directions now usual in the Chancery Division in similar cases, shall be forthwith made: R. S. C. Ord. XV. 1. The words in italics are new, and have, it is apprehended, considerably extended the operation of the rule.

How made.—The application is by summons, supported by an affidavit, when necessary, filed on behalf of the plaintiff, stating concisely the grounds of his claim to an account. The application may be made at any time after the time for entering an appearance has expired: R. S. C. Ord. XV. 2.

Service of Summons.—This may be either (1) on defendant personally (R. S. C. Ord. LII. 8), or (2) by filing in the Central Office or District Registry (R. S. C. Ord. LXVII. 4).

Evidence required on the application.—(1) Affidavit of service of the writ of summons; and of the summons for an account (R. S. C. Ord. XIII. 2); (2) affidavit of ground of plaintiff's claim (Ord. XV. 2); (3) certificate of non-appearance. A fee of 2*s.* 6*d.* is payable on such certificate: see Ord. as to S. C. Fees, 1884; Sched. No. 42.

The order.—For forms of order, see 1 Seton, 8, No. 8; 2 Seton, 801, Nos. 1 and 2; 803, No. 3; 848, Nos. 1 and 3. For form of adjournment of further consideration, see 1 Seton, 8, No. 8; 71, No. 4. If it is desired that the accounts and inquiries which are required should be preliminary only, the application should be made under R. S. C. Ord. XXXIII. 2. After an order made under Ord. XV. it is apprehended that there can be no further trial of the action, except of issues raised by subsequent pleadings: see *Gatti* v. *Webster*, 12 Ch. D. 771; *Clover* v. *Wilts & Western Benefit Building Society*, W. N. (1884), 110: 32 W. R. 895. A fee of 10*s.* is payable on the order: see Ord. as to S. C. Fees, 1884, Sched. No. 61. The order may be made by a District Registrar: see *Re Bowen, Bennett* v. *Bowen*, 20 Ch. D. 538. The order may also be made and the account taken in the Queen's Bench Division: *York* v. *Stowers*, W. N. (1883), 174.

(*h*) If an order for general administration is required, it must be made by the Judge personally: see R. S. C. Ord. LV. 15. An account cannot be directed under Ord. XV. on the footing of wilful default: see *Re Bowen, Bennett* v. *Bowen*, 20 Ch. D. 538.

of the testator [*or*, intestate] X. Y. in the indorsement on the writ of summons [*or*, in the pleadings] in this action mentioned, at the instance of a creditor [*or*, specific—*or*, pecuniary—*or*, residuary legatee], including all necessary and proper accounts, inquiries, and directions in that behalf.

Foreclosure (*i*).

Or, of what is due to the plaintiff for principal, interest, and costs on the mortgage dated the —— day of ——, 188—, in the indorsement on the writ of summons [*or*, in the pleadings] in this action mentioned; and that in default of payment of what shall be found due on taking the said account, the defendant may be foreclosed [*or*, that the property comprised in the said mortgage may be sold with the approbation of the Judge].

Redemption.

Or, of what if anything is due from the plaintiff to the defendant upon the mortgage dated the —— day of ——, 188—, in the indorsement on the writ of summons [*or*, pleadings] in this action mentioned, and for redemption of the property comprised in the said mortgage: the plaintiff hereby undertaking to pay what, if anything, shall be found due to the defendant on taking the said account.

'431.

Another form of the summons (*j*). [Dan. Pr. 362.]

Formal parts: see Form 43.

on the part of the plaintiff, for an order in the terms of the minutes annexed to this summons.

432.

Another form of the summons (*k*) [Dan. Pr. 362.]

Formal parts: see Form 43.

on the part of the plaintiff, that pursuant to Order XV., rule 1, of the Rules of the Supreme Court, an order may be made for the account claimed by the indorsement on the writ of summons issued in this action on the —— day of ——, 188—, with all usual directions in that behalf. And that the costs of this application may be costs in the action.

(*i*) The new words introduced into the rule (see note (*g*)) are, it seems, clearly sufficient to enable an order to be made in actions for foreclosure. And such orders are now made in the Chambers of all the Judges attached to the Chancery Division: see *Davies* v. *Smith*, W. N. (1884), 242; 33 W. R. 211.

(*j*) Except in very simple cases it is desirable that minutes of the proposed order should be prepared and annexed to the summons.

(*k*) This form of summons can be obtained in the Central Office.

(7.) *Defendant's Proceedings to set aside a Judgment entered for Default of Appearance.*

433.

Notice of motion or summons to set aside a judgment regularly entered for default of appearance (*l*). [Dan. Pr. 363.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant, that the judgment entered in this action on the —— day of ——, 188— (*If there have been any subsequent proceedings upon such judgment, state them; as:* and the writ of sequestration, issued on such judgment, on the—— day of ——, 188—), may be set aside, and that the defendant may be at liberty to appear to and defend this action.

434.

Affidavit in support (*m*). [Dan. Pr. 363.]

Formal parts: see Form 6.

1. The writ of summons in this action was issued on the —— day of ——, 188—, out of the Central Office of the Supreme Court of Judicature, and was served on me [*or*, on the defendant A. B.] on the —— day of ——, 188—. On the —— day of ——, 188—, final [*or*, interlocutory] judgment was entered for want of an appearance, and on (*Here state the subsequent proceedings in the action, if any have been taken*).

2. I [*or*, The said defendant ——] did not enter an appearance to the said writ of summons owing to the following circumstances: (*Here explain the circumstances under which judgment was allowed to go by default, and account for the delay, if any, in making the application*).

3. The plaintiff's claim in this action is for (*Here state the nature of the plaintiff's claim, and the facts upon which the applicant relies as affording a good defence to such claim*).

4. (*Here state, shortly, facts disclosing a defence upon the merits.*)

5. For the reasons and under the circumstances aforesaid, I am advised and verily believe that I have [*or*, the said defendant has] a good defence to this action upon the merits.

6. (*Show means of knowledge.*)

435.

Notice of motion or summons to set aside judgment and subsequent proceedings for irregularity (*n*). [Dan. Pr. 364.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant, that the judgment entered in this action

(*l*) See R. S. C. Ord. XIII. 10; and XXVII. 15; *Scott* v. *Royal Wax Candle Co.*, 1 Q. B. D. 404; *Watt* v. *Barnett*, 3 Q. B. D. 183. As to the effect of delay in making the application, see *Atwood* v. *Chichester*, 3 Q. B. D. 722: 26 W. R. 320. The application will in general only be granted upon the terms of paying the plaintiff's costs of the proceedings which it is sought to set aside, and the costs of the application, and upon such other terms as the Court or Judge may think proper in the particular case; in some cases the defendant will be ordered to bring money into Court, or to give security: *Watt* v. *Barnett*, 3 Q. B. D. 183; Dan. Pr. 363, 364.

(*m*) This affidavit may be made either by the defendant, or his solicitor, or some other person so connected with the action as to be able to speak to the merits. The affidavit must disclose the merits, and it seems that it is not sufficient to swear to merits generally: see *Smith* v. *Dobbin*, 3 Ex. D. 338; Chitty's Forms, 111.

(*n*) The application should be made within reasonable time, and the defendant should take no fresh step after knowledge of the irregularity: see R. S. C. Ord. LXX. 2.

on the —— day of ——, 188— (*If there have been any subsequent proceedings upon such judgment, state them, as:*

and the writ of inquiry issued on the —— day of ——, 188—, to assess damages under the said judgment, and the final judgment entered in this action on the —— day of ——, 188—, and the writ of *fieri facias* [*or as may be*] issued upon such judgment),

may be set aside as irregular, on the ground (*o*) that (*Here specify the irregularity, on the ground of which it is sought to set the judgment aside; as:*)

the writ of summons in this action was not duly served on the said defendant; *or,*

the said judgment was entered before the expiration of the time limited by the writ of summons in this action for the said defendant to appear thereto;

and that the defendant may be at liberty to enter an appearance to the said writ of summons, and defend this action; and that the plaintiff may be ordered to pay to the defendant his costs of this application.

436.

Affidavit in support. [Dan. Pr. 364.]

Formal parts: see Form 6.

1. On the —— day of ——, 188—, the writ of summons in this action was issued out of the Central Office of the Supreme Court of Judicature (*State the subsequent proceedings in the action, showing how they were irregular, and show also that the application is made as soon as possible* (*p*)).

2. I am advised, and verily believe, that I have [*or*, that the said defendant A. B. has] a good defence to this action on the merits (*q*).

3. (*Show means of knowledge.*)

(*o*) See R. S. C. Ord. LXX. 3.

(*p*) See note (*n*), *supra*.

(*q*) It does not seem to be necessary to show a good defence upon the merits, as it is where the judgment sought to be set aside is regular: see *per* Parke, B., in *Hall* v. *Scotson*, 23 L. J. (Exch.) 85; but it is advisable to make, at least, a general statement of this description.

CHAPTER VIII.

PROCEEDINGS AFTER APPEARANCE AND BEFORE PLEADINGS.

(*Dan. Pr.*, pp. 365—373, cccl v.—cccl vii.)

SECTION I.—PROCEEDINGS ON THE PART OF THE PLAINTIFF.

(*Dan. Pr.*, pp. 365—370, cccl v.—cccl vi.)

(1.) *Plaintiff's application for a statement of Names of Copartners in Defendant's Firm.*

437. Summons for statement of names of persons who were partners in defendants' firm when cause of action accrued (*a*). [Dan. Pr. 365.]

(*Same as* Form 55.)

(2.) *Plaintiff's application that the Action may be retained in a District Registry.*

438. Notice of motion or summons that action may proceed in District Registry (*b*). [Dan. Pr. 365.]

Formal parts: *see* Form 38 *or* 43.

on the part of the plaintiff, that notwithstanding the defendant C. D. has entered an appearance in London [*or*, has served a notice of his desire that this action should be removed to London], this action may be ordered to proceed in the District Registry at ——.

(*a*) See R. S. C. Ord. XVI. 14.

(*b*) *Retaining Action in the District Registry.*—Notwithstanding appearance in London (Ord. XII. 7), or removal to London (Ord. XXXV. 13, 14), the Court or a Judge, if satisfied that the defendant appearing, or giving notice of removal, is a merely formal defendant, or has no substantial cause to interfere in the conduct of the action, or that there is other good cause for proceeding in the District Registry, may order the action to proceed there: R. S. C. Ord. XII. 7; *Ibid.*, XXXV. 14: see *Smith* v. *Bell*, W. N. (1883), 196.

(3.) *Plaintiff's application to sign Judgment* (*c*) *notwithstanding Appearance, where Writ indorsed under R. S. C. Ord. III., rule* 6 (*d*).

(*c*) *Application for Final Judgment under R. S. C. Ord. XIV.—Summary of its Provisions.*

	Order.
Where writ is specially endorsed under R. S. C. Ord. III. 6, and defendant appears, the plaintiff may, on affidavit verifying the cause of action and the amount claimed, and stating that in the belief of the deponent there is no defence to the action, apply to a Judge for liberty to enter final judgment for the amount indorsed and interest, or for recovery of the land claimed, and costs	XIV. 1.
Application: when and how made.—By summons returnable at least *four clear days* after service, accompanied by a copy of the affidavit and any exhibits referred to therein	,, 2.
Proceedings on the application.—Defendant may show cause against the application by affidavit, or (except in action for the recovery of land,) by offering to bring into Court the sum indorsed on the writ. The affidavit must state whether the defence goes to the whole, or to part only, and to what part of the claim. The Judge may order the defendant, or, in the case of a corporation, any officer thereof, to attend and be examined on oath, and to produce documents	,, 3.
Judgment for part.—If defence set up applies only to part of the claim, or any part of such claim is admitted, the plaintiff may have judgment for the part not defended or admitted, the defendant being allowed to defend for the residue . . .	,, 4.
Separate judgment.—Where one defendant has a defence, and another defendant has none, the former may be admitted to defend: the plaintiff being at liberty to sign judgment and issue execution against the other	,, 5.
Terms of leave to defend.—Leave to defend may be given (1) unconditionally, or (2) subject to such terms as the Judge may think fit	,, 6.

439.

Summons for liberty to sign final judgment, notwithstanding appearance (*e*). [Dan. Pr. 366.]

Formal parts: see Form 43.

on the part of the plaintiff, that he may be at liberty, notwithstanding that the defendant has appeared, to sign final judgment in this action

(*d*) For cases in which the writ can be specially indorsed under Ord. III., r. 6, see Forms 315—327, and notes thereto. For cases in which leave has been refused in actions in which the writ was indorsed under Ord. III., r. 6 (F.), see *Burns* v. *Walford*, W. N. (1884), 31; *Mansbergh & Wife* v. *Rimell*, W. N. (1884), 34; *Hobson* v. *Monk & another*, W. N. (1884), 17; but see *contra*, *Daubuz* v. *Lavington*, 13 Q. B. D. 347: 32 W. R. 772. As to application against a married woman, see *Perks* v. *Mylrea*, W. N. (1884), 64 (explaining *Moore* v. *Mulligan*, W. N. (1884), 34); *Bursill* v. *Tanner*, 13 Q. B. D. 691: 32 W. R. 827. As to a claim on a foreign judgment, see *Grant* v. *Easton*, 13 Q. B. D. 302: 32 W. R. 239.

(*e*) See R. S. C. Ord. XIV. 2; and note (*c*), *supra*. The summons must be made returnable *not less than four clear days* after service. The dismissal of the summons will be no bar to a fresh application upon fresh materials: *Wagstaff* v. *Jacobowitz*, W. N. (1884), 17. For forms of order for judgment, see R. S. C. App. K., No. 6; Chitty's Forms, 115; 1 Seton, 8, No. 6. For forms of orders giving liberty to defend, either unconditionally, or on terms, see R. S. C. App. K., Nos. 7, 8, 9. A fee of 5*s.* is payable on the order: by a stamp impressed thereon: Ord. as to S. C. Fees, 1884, Sched. No. 66: Ord. as to Fees, &c., July, 1884, p. 9.

against the defendant for the sum of £——, being the amount indorsed on the writ,

If interest is claimed, add: together with interest,

Or, if writ is indorsed for recovery of land: for possession of the land in the indorsement of the writ described as (*describe the property as in the indorsement*), together with £—— for rent or mesne profits; and for the costs of this action: to be taxed.

440.
Affidavit in support (*f*). [Dan. Pr. 366.]

Formal parts: see Form 6.

1. The defendant C. D. is justly and truly indebted to me [*or*, to A. B. the plaintiff] in the sum of £——, for (*State consideration*). The particulars of the said claim appear in the indorsement on the writ of summons in this action. The said particulars are true and correct.

2. I verily believe that there is no defence to this action.

3. (*If the affidavit is made by a person other than the plaintiff, show means of knowledge.*)

441.
Affidavit in answer (*g*). [Dan. Pr. 367.]

Formal parts: see Form 6.

1. I am advised and believe that I have a good defence to the whole of the plaintiff's claim in this action upon the merits.

Or, I am advised and believe that as to £——, being part of the plaintiff's claim in this action, I have a good defence to this action upon the merits.

2. (*Here state the facts on which the defendant relies as affording a defence to the plaintiff's claim, or to part thereof, or, as the case may be.*)

(*f*) See R. S. C. Ord. XIV. 1. For another form of this affidavit, see Chitty's Forms, 113. This affidavit must be made by the plaintiff, or by some person who can swear positively to the facts. For contents of the affidavit, see note (*c*), *supra*. Any documents evidencing the plaintiff's case ought to be exhibited in the first instance, as leave to reply may be refused.

(*g*) As to the contents of this affidavit, see R. S. C. Ord. XIV. 1, and note (*c*), *supra*; *Runnacles* v. *Mesquita*, 1 Q. B. D. 416. The facts disclosed in the affidavit must justify a reasonable belief that defendant is entitled to succeed in the action: *London & Provincial Stock Exchange Co.* v. *Willis*, 28 Sol. J. 478. The Court or Judge has a discretion to allow the plaintiff to reply to the defendant's affidavit: *Davis* v. *Spence*, 1 C. P. D. 719; *Girvin* v. *Grepe*, 13 Ch. D. 174; and see Chitty's Forms, 115, note (*b*). The power given by R. S. C. Ord. XIV. 3, of ordering the defendant to attend and be examined (see note (*c*) *supra*), ought to be exercised only in exceptional cases: *Millard* v. *Baddeley and others*, W. N. (1884), 96. For form of order giving leave to defend unconditionally, see R. S. C. App. K., No. 7; Chitty's Forms, 115; and *Egerton* v. *Anderson*, W. N. (1884), 95, where Field, J., stated that the words in the Form in R. S. C., "within —— days after service of this order," ought to be omitted. For form of order giving leave to defend on bringing money into Court, see R. S. C. App. K., No. 8; Chitty's Forms, 116. For form of order for judgment as to part, and leave to defend as to residue, see R. S. C. App. K., No. 9; Chitty's Forms, 116. For form of bond to secure payment when security ordered, see Chitty's Forms, 117, 118.

442.

Final judgment, where order made under R.S.C., Ord. XIV. (*h*). [Dan. Pr. 368—369.]

(*Title and reference to the record.*)

—— day of ——, 188— (*Date of entering judgment*).

The defendants having appeared to the writ of summons herein, and the plaintiff having, by the —— order dated the —— day of ——, 188—, obtained leave to sign judgment under the Rules of the Supreme Court, Order XIV., rule 1, for (*Here recite the order; as:*

the sum of £——, the amount indorsed on the writ of summons, together with interest and costs: *Or*,

for the sum of £——, being part of the plaintiff's claim in this action: *Or*,

against the said defendant C. D. for the sum of £——, being ——: *Or*,

for the recovery of the land in the indorsement on the writ of summons described as ——):

It is this day adjudged that the plaintiff recover against the said defendants [*or*, against the said defendant C. D.] the sum of £—— [*or*, possession of the land in the indorsement on the writ described as ——], and costs to be taxed.

(4.) *Plaintiff's application for order for an Account, where Writ of Summons Indorsed under R. S. C., Ord. III., rule* 8 (*i*).

443.

Summons for order for an account, where writ indorsed under Ord. III. rule 8 (*j*). [Dan. Pr. 369.]

(*Same as* Forms 430—432.)

(5.) *Plaintiff's proceedings where the Defendant has paid money into Court* (*k*).

(*k*) *Payment into Court before Defence.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Payment in and notice thereof.—In action for debt or damages defendant may before (or at the time of) delivering his defence pay into Court a sum of money by way of satisfaction: which shall be taken to admit the claim or cause of action in respect of which the payment is made	XXII. 1.

(*h*) See R. S. C. Ord. XIV. 1; App. F., No. 5; 1 Seton 8, No. 7. As to entering the judgment, see Form 420, note (*t*). The order giving leave to enter the judgment must be produced to the officer, together with the original writ of summons. A fee of 10*s.* is payable on entering the judgment: by a stamp impressed thereon: see Ord. as to S. C. Fees, 1884, Sched. No. 58; Ord. as to Fees, &c., July, 1884, p. 9. An order to sign judgment unless a sum is paid by the defendant before a certain day, need not be served on the defendant before judgment is signed upon it: *Hopton* v. *Robinson*, W. N. (1884), 77.

(*i*) This application may be made as well where the defendant has appeared as where he has made default in appearance: See R. S. C. Ord. XV.

(*j*) See R. S. C. Ord. XV. 2.

	Order.
Notice of such payment is to be given, in the prescribed form (App. B., No. 3)	XXII. 4.
Payment out.—When payment into Court is made before delivery of defence, the money paid in will be paid out to the plaintiff on his request, or to his solicitor on his written authority	,, 5 (*a*).
Acceptance of payment in satisfaction.—Plaintiff may, within *four days* after receipt of the notice of payment, give notice, in the prescribed form (App. B., No. 4), accepting the payment in satisfaction of his claim. If the entire cause of action is satisfied, he may, after *four days* from service of such notice, tax his costs, and in case of nonpayment within forty-eight hours after taxation, sign judgment for the taxed costs . .	,, 7.
Funds in Court in the Chancery Division.—The manner of payment in, and the manner in which money in Court is to be dealt with, are subject to the rules for the time being in force under the Court of Chancery Funds Act, 1872	,, 12.

Funds in Court in all the Divisions are now regulated by The Supreme Court Funds Rules, 1884. For form of request for lodgment in Court, see Form 456.

444.

Request for payment out of court of money lodged in satisfaction (*l*).

In the High Court of Justice,
Chancery Division.
(*Short title and reference to the record.*)

Ledger credit to which the money is standing. } (*If same as title of cause state* "As above.")

To the Assistant Paymaster-General.

I hereby request that payment of the sum of £—— paid in in the above action may be made to

If request is signed by the plaintiff's solicitor (or other person on his —— behalf) say: "the said plaintiff" (*Naming him*).

But if signed by the plaintiff, say: "me the said plaintiff" (*Naming him*); *or*, "X. Y. the solicitor to me the said plaintiff," (*Naming the plaintiff*).

(*Signature*) ——.
(*Address*) ——.
(*Date*) ——, 188—.

445.

Notice accepting sum paid into Court by defendant (*m*).

Formal parts: see Form 37.

Take notice that the plaintiff accepts the sum of £——, paid by you [Dan. Pr. 370.]

(*l*) *Payment out of money paid in, in satisfaction.*—When money has been lodged in action for debt and damages under R. S. C. Ord. XXII., payment of the money will be made to the person in satisfaction of whose claim it has been lodged, or to the person otherwise entitled thereto, or, on the written authority of either such person respectively, to his solicitor: unless an order restraining such payment has been lodged at the Pay Office prior to the issue of the Paymaster's direction for payment: Supreme Court Funds Rules, 1884, rule 44 (A). For form of request in the text, see *Ibid.*, App. No. 11 (A). This request obviates the necessity for the order stated in Dan. Pr. 370 to be required. A fee of 1*s.* is payable on this request: by a stamp impressed thereon: Ord. as to S. C. Fees, 1884, Sched. No. 106; Ord. as to Fees, &c., July, 1884, p. 11.

(*m*) See R. S. C. Ord. XXII. 7; App. B., No. 4.

[*or*, by the defendant A. B., *or as may be*], into Court, in satisfaction of the claim in respect of which it is paid in [*or*, in satisfaction of his entire cause of action].

446.

Judgment for costs, where the amount paid in is accepted in satisfaction of the entire cause of action (*n*). [Dan. Pr. 370.]

(*Title and reference to the record.*)

—— day of ——, 188—.

The defendant having paid into Court in this action the sum of £——, in satisfaction of the plaintiff's claim, and the plaintiff having by his notice, dated the —— day of ——, 188—, accepted that said sum, in satisfaction of his entire cause of action, and the plaintiff's costs herein having been taxed, and the defendant not having paid the same within forty-eight hours after the said taxation: It is this day adjudged that the plaintiff recover against the said defendant costs: to be taxed.

The above costs have been taxed and allowed at £——, as appears by a Taxing Officer's certificate, dated the —— day of ——, 188—.

(6.) *Plaintiff's Summons for Directions under R. S. C. Ord. XXX.* (*o*).

(*o*) *Summons for Directions.—Summary of Provisions of R. S. C.* 1883.

	Order.
Any party may at any time take out a summons for directions with respect to the following matters and proceedings: particulars of claim, defence, or reply, statement of special case, discovery (including interrogatories), commissions and examinations of witnesses, mode of trial (including proceedings in lieu of demurrer, trial on motion for judgment and reference), place of trial, and any other matter or proceeding in the cause or matter previous to trial	XXX. 1.
Such summons is to be returnable in *not less than four days*, and to be in the prescribed form, with such variations as circumstances may require, and to be addressed to and served upon all such parties to the cause or matter as may be affected thereby. The applicant is to include in the summons all or as many of the above-mentioned matters as can be conveniently dealt with. Upon the hearing of the summons, any party may apply for any order or directions as to any of the above-mentioned matters which he may desire, and thereupon, after notice to such parties as the Court or Judge may direct, any order may be made, and all necessary directions given as to all or any of such matters as may be just, whether applied for or not. The order to be in the prescribed Form (App. K. No. 4). . . .	,, 2.
The costs of any application which might have been, but was not, included in the summons for directions, are to be borne by the party making the same	,, 3.

(*n*) See R. S. C. Ord. XXII. 7; App. F., No. 16. On entering judgment the defendant's notice of payment in, a duplicate of the plaintiff's notice of acceptance, and the Taxing Master's certificate, must be produced to the officer. As to the fee payable on the judgment, see note (*h*) to Form 442. The order only applies to actions for recovery of debt or damages. In other cases the Court has a discretion as to costs: *Nichols* v. *Evens*, 22 Ch. D. 611: 31 W. R. 412. If the money is paid into Court with a denial of liability, and the plaintiff accepts the sum in satisfaction, he cannot tax his costs under this rule: *Crosland* v. *Routledge and another*, W. N. (1883), 228. But see *contra*, *M'Ilwraith* v. *Green*, 13 Q. B. D. 897.

447.
Summons for directions (*p*). [Dan. Pr. 370, ccclvi.]

Formal parts: see Form 43.

on the part of the plaintiff for directions for

Here state all matters or proceedings previous to trial on which directions are required; as thus:

1. That the plaintiff may be ordered to deliver to the defendant further and better particulars, with dates and items, of his claim; and that unless such particulars be delivered within —— days from the date of the order to be made hereon, all further proceedings may be stayed until the delivery thereof.

2. That the plaintiff and defendant may be at liberty to deliver to each other interrogatories in writing; and that the said parties may respectively answer the said interrogatories as prescribed by the Rules of the Supreme Court, Order XXXI., rules 8 and 26.

3. That the applicant may be at liberty to issue a commission for the examination of witnesses on his behalf at ——; and that the trial of this action may be stayed until the return of the said commission: the usual long order for such commission to be drawn up, and, unless agreed upon by the parties within one week, to be settled by the Judge.

4. That this action may be tried in the county of —— by a Judge.

5. That either party may be at liberty, without further summons, to apply to the Judge for further directions: such application to be made upon two clear days' notice to be served upon the other party.

6. That the costs of this application may be costs in the action.

Section II.—Proceedings on the part of the Defendant.

(*Dan. Pr.*, pp. 371—373.)

(1.) *Obtaining disclosure from the Plaintiff and his Solicitor.*

448.
Demand whether writ issued by or with authority or privity of solicitor whose name is indorsed thereon (*a*). [Dan. Pr. 316 and 371.]

Formal parts: see Form 37.

Take notice that you are hereby required by me [*or*, on behalf of] the defendant C. D. to declare forthwith in writing, pursuant to the Rules of the Supreme Court, Order VII., rule 1, whether the writ of

(*p*) See R. S. C. App. K., No. 3. For form of order, see *Ibid.*, No. 4. A fee of 10*s.* is payable on the summons: by a stamp impressed or adhesive, and a fee of 5*s.* on the order: by a stamp impressed thereon: see Ord. as to S. C. Fees, 1884, Sched. Nos. 10 and 66; Ord. as to Fees, &c., July, 1884, pp. 4, 9.

(*a*) *Disclosure by Solicitor of Plaintiff.*—The solicitor whose name is indorsed on the writ must, on demand in writing made by or on behalf of any defendant who has been served therewith or has appeared thereto, declare forthwith in writing if such writ was issued by him or with his authority or privity; and if the solicitor declares that the writ was not so issued, all proceedings upon the same will be stayed, and no further proceedings taken thereupon without special leave: R. S. C. Ord. VII. 1; see 2 Seton, 1540.

summons issued in this action out of the Central Office of the Supreme Court of Judicature on the —— day of ——, 188—, and served on me [*or*, on the above-named defendant C. D.], on the —— day of ——, 188—, and whereon is indorsed a statement that the same was issued by you, has been issued by you or with your authority or privity.

(*To be signed by defendant in person, or by his solicitor, and adding the address of the person signing the same*).

449.

Declaration in reply thereto (*b*). [Dan. Pr. 371.]

Formal parts: see Form 37.

Take notice that the writ of summons in this action mentioned or referred to in your notice dated the —— day of ——, 188—, was [*or*, was not] issued by me or with my authority or privity.

450.

Notice of motion, or summons, to stay proceedings until reply. [Dan. Pr. 316 and 371.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant [*or*, of the defendant C. D.], that all proceedings upon the writ of summons in this action may be stayed,

If there are other defendants than the applicant, add: as against the applicant,

until E. F., whose name is indorsed on the said writ of summons as that of the solicitor issuing the same, shall have declared to the said defendant whether the said writ of summons was so issued by him or with his authority or privity; and that the plaintiff A. B. may be ordered to pay to the applicant the costs of this application: to be taxed.

451.

Affidavit in support. [Dan. Pr. 316 and 371.]

Formal parts: see Form 6.

1. On the —— day of ——, 188—, I [*or*, the above-named defendant C. D.] was served with the document now produced and shown to me, and marked A. (*c*), and which purports to be a copy of a writ of summons and of the indorsements thereon issued out of the Central Office of the Supreme Court of Judicature on the —— day of ——, 188—.

2. On the —— day of ——, 188—, I served Mr. E. F., whose name is indorsed on the said document as that of the solicitor issuing the said writ of summons, with a demand in writing by [*or*, on behalf of] the defendant C. D., requiring the said Mr. E. F. to declare forthwith whether such writ was issued by him or with his authority or privity, by delivering the said demand to the said Mr. E. F. personally [*or*, by leaving the said demand with a clerk or servant of the said Mr. E. F. at ——, the address for service indorsed on the said writ.]

(*b*) See note (*a*) to Form 448.

(*c*) For form of memorandum of exhibit, see Form 28.

3. The said Mr. E. F. has not declared whether the said writ was or was not issued by him or with his authority or privity.

4. (*Show means of knowledge.*)

(*Same as* Form 49.)

452. Application for names and places of residence of persons suing as co-partners in the name of their firm (*d*). [Dan. Pr. 78 and 371.]

(*Same as* Form 53.)

453. Summons for statement of co-partners in plaintiffs' firm at time of accruing of cause of action (*e*). [Dan. Pr. 78, cccxxxviii.]

(2.) *Removal of the Action from a District Registry to London* (*f*).

(*f*) *Removal of Action from District Registry.—Summary of Material Provisions of R. S. C.* 1883.

Where Defendant entitled to remove as of right:—	ORDER.	
A. Where writ specially indorsed, and no notice given by plaintiff, within *four days* after appearance, of intention to apply for final judgment under Ord. XIV.	XXXV.	13.
B. Where writ specially indorsed, and plaintiff has applied for final judgment under Ord. XIV., and defendant has obtained leave to defend	,,	,,
C. Where writ is not specially indorsed	,,	,,
Mode of removal.—Notice of removal must be served upon the other parties to the action, and delivered to the District Registrar	,,	14.
The notice must be accompanied by a certificate signed by defendant or his solicitor, that defence not delivered, and time for delivery not expired	,,	15.
Removal in other cases.—In any case not within the previous rules, the Court or a Judge, or the District Registrar, may order removal	,,	16.
Removal from London to District Registry.—Any party may apply to remove a cause or matter proceeding in London to the District Registry	,,	17.
Address for service in London.—Where action removed from District Registry, defendant must give notice to plaintiff of an address for service (see Ord. IV. and XII. 10, 11) in London	,,	18.
Transmission of documents.—When defendant appears in London, or proceedings are removed to London, the original documents filed in the Registry must be transmitted to the Central Office	,,	20.

(*d*) See R. S. C. Ord. VII. 2.

(*e*) See R. S. C. Ord. XVI. 14, and Form 53.

454.

Notice to remove action from District Registry to London (*g*). [Dan. Pr. 371.]

Formal parts : see Form 37.

Take notice that the defendant C. D. desires this action to be removed from the District Registry at —— to the London Office of the High Court of Justice.

455.

Certificate that defence not delivered, and time for delivery not expired (*h*).

(*Short title and reference to the record.*)

I hereby certify that the defence of the above-named defendant [*or*, of the above-named defendant C. D. ; *or*, *where defendant defends in person*, my defence] in this action has not been delivered, and that the time for delivering the same has not expired.

Dated the —— day of ——, 188—,

D. Z.,
Solicitor for the above-named defendant [*or*, C. D., the above-named defendant in person].

(3.) *Payment of Money into Court in Satisfaction* (*i*).

456.

Request for lodgment in an action for debt or damages (*j*).

(*Short title and reference to the record.*)

Ledger credit to which lodged. } [*If same as title of cause state* "As above."]

The Paymaster is requested to issue a direction to the Bank to receive £—— for the ledger credit in the books of the Pay Office above specified ; which amount is paid in "in satisfaction of claim" of above-named (*state name of party*).

(*Signature*) ——.

457.

Paymaster's direction for lodgment (*k*).

To the Agent of the Bank of England (Law Courts Branch).

Please receive the above-stated (*kk*) sum and place it to the account of

(*g*) See R. S. C. Ord. XXXV. 13, 14 ; and note (*f*), *supra*.

(*h*) *Ibid.*, 15 ; and note (*f*), *supra*.

(*i*) See R. S. C. Ord. XXII. 1 ; and note (*k*) at p. 182.

(*j*) *Provisions of Supreme Court Funds Rules*, 1884.—When money is to be lodged (in any action brought to recover a debt or damages) under the provisions of R. S. C. Ord. XXII. the request must be in the Form in the text (App. to Rules, No. 7), and must contain a statement of the circumstances under which the money is to be lodged, in the terms in the rule mentioned, viz. :—(A.) When the money is to be lodged under the provisions of Rule 5 of the said Order XXII. a statement in the following terms "Paid in in satisfaction of claim of above-named (*name of party*)" : see Rule 30. A fee of 1*s.* is payable on the request : by a stamp impressed thereon : see Ord. as to S. C. Fees, 1884, Sched. No. 106 ; Ord. as to Fees, &c., July, 1884, p. 11. A request or authority for the issue by the Paymaster of a direction for the lodgment of funds in Court may be sent to the Paymaster by post, and, if so desired by the person sending the same, the Paymaster will send such directions by post to the address specified by such person : see Rule 35.

(*k*) See S. C. Funds Rules, 1884, Rule 30, App. No. 7.

(*kk*) This direction and the Bank receipt (Form 458) are printed at the foot of the request.

the Paymaster-General for and on behalf of the Supreme Court of Judicature.

(*Signature*) ——.

458. Bank certificate of receipt (*l*).

To the Assistant Paymaster-General,

Bank of England, ——, 188—.

The above-stated sum has been this day received

For the Governor and Company of the Bank of England,

(*Signature*) ——.

[Entered, No. ——.]

459. Notice of payment into Court (*l*). [Dan. Pr. 373.]

(*Short title and reference to the record.*)

Take notice that the defendant has paid into Court £——, and says that that sum is enough to satisfy the plaintiff's claim [*or*, the plaintiff's claim for (*Here specify the claim or cause of action in respect of which the payment is made*)].

D. Z.,

Defendant's Solicitor.

To Mr. X. Y.,

The Plaintiff's Solicitor.

(4.) *Defendant's Summons for Directions.*

460. Summons for directions (*m*). [Dan. Pr. 373, cccl vi.]

(*Same as* Form 447.)

(*l*) S. C. Funds Rules, 1884, Rule 37, App. No. 7.

(*l*) See R. S. C. Ord. XXII. 4; App. B., No. 3.

(*m*) See R. S. C. Ord. XXX. 1, 2; App. K., No. 3; Form 447; and note (*p*) thereto.

CHAPTER IX.

THE PLEADINGS IN AN ACTION (*a*).

(*Dan. Pr.*, pp. 374—554, cccl vii.—cccl xix.)

(*a*) *Pleadings Generally.—Summary of Material Provisions of R. S. C.* 1883.

	ORDER.
Form of pleadings.—Every pleading must, when necessary, be divided into paragraphs numbered consecutively: dates, sums and numbers being expressed in figures and not in words. Signature of counsel is not necessary, but where pleading settled by a counsel or pleader, it must be signed by him; and if not so settled, by the solicitor, or by the party (if he sues or defends in person)	XIX. 4.
The prescribed forms must be used where applicable, or forms of a like character (App. C. D. E.)	,, 5.
Printing pleadings.—Every pleading exceeding ten folios in length must be printed; if less it may be written or printed .	,, 9.
Pleadings must be printed in the prescribed manner .	LXVI. 3, 7 (*m*).
Furnishing copies.—The party printing must furnish copies to the other side upon payment of the prescribed charge therefor	,, 7 (*c*).
Delivery of pleadings.—To be delivered between the parties .	XIX. 11.
(1) After appearance.—By service on the solicitor or party in person	,, 10.
(2) In default of appearance.—By filing with the proper officer	and LXVII. 4.
Marking pleadings.—Every pleading must be marked on the face with (1) the date of its delivery; (2) the reference to the record; (3) the Division to which the Judge (if any) to whom the action is assigned belongs; (4) the title of the action; (5) the description of the pleading. It must also be indorsed with the name and place of business of the solicitor and agent, or name and address of the party in person	XIX. 11.
Time for delivery.—	
(*a*) Statement of claim—within *six weeks* after appearance .	XX. 1 (*d*).
(*b*) Defence, or defence and counterclaim—within *ten days* after statement of claim or time for appearance, whichever shall be last	XXI. 6, 7, 11.
(*c*) Reply—within *twenty-one days* after delivery of last of the defences	XXIII. 1.
(*d*) Reply to counterclaim—within *ten days* after delivery of counterclaim or time for appearance thereto . .	XXI. 14.
(*e*) Further defence or reply—within *eight days* after ground of defence arises	XXIV. 2.
(*f*) Subsequent pleadings—within *four days* after previous pleading	XXIII. 3.
Long vacation.—No pleading can be amended or delivered in long vacation without special leave	LXIV. 4.
Long vacation not reckoned in computation of time allowed for filing, amending, or delivering any pleading	,, 5.
Costs.—Costs occasioned by unnecessary prolixity to be borne by party chargeable with same	XIX. 2, 5, & LXV. 27 (20).

ORDER.

Allowances for drawing pleadings in discretion of Taxing Master . . . . . LXV. 27 (1).
Fees allowed to include any copy made for use of solicitor, agent, or client, or for counsel to settle . . . . . ,, ,, (2).
Pleading matters arising pending the action (see Sect. I. (1); Forms 461—470) . . . . . XXIV.
Amending pleadings (see Sect. I. (2); Forms 471—481) . . XXVIII.
Proceedings in lieu of demurrer (see Sect. V.; Forms 608—613) . . . . . XXV.
Default of pleading (see Chap. X.) . . . . . XXVII.
Judgment on admissions in pleadings (see Sect. VII.; Form 614) . . . . . XXXII. 6.

Contents of pleading.—Every pleading must contain, *and contain only*, a statement in a summary form of the material facts on which the party pleading relies for his claim or defence, but not the evidence by which they are to be proved . . . . XIX. 4.

Rules of pleading:—

Particulars: when to be given.—Where party relies on any misrepresentation, fraud, breach of trust, wilful default, or undue influence, and in all other cases where necessary, particulars must be stated in the pleadings: if particulars be of debt, expenses, or damages, and exceed three folios, the fact must be so stated, with a reference to particulars already delivered or to be delivered with the pleading . . . . . ,, 6.

Further and better particulars may be ordered . . . ,, 7.

The party obtaining an order for particulars will have the same time for pleading after delivery of particulars that he had at the return of the summons: in other respects an order for particulars is not to operate as a stay or to give any extension of time . . . . . ,, 8.

Plea of not guilty by statute.—May be pleaded, but no other defence therewith without special leave . . . . . ,, 12.

Specific denial.—Allegations of fact not specifically denied will be taken as admitted, except as against infants, lunatics, or persons of unsound mind . . . . . ,, 13.

Conditions precedent.—Conditions precedent, the performance or occurrence of which is to be contested, must be specified . . ,, 14.

Pleadings must raise all grounds of defence or reply.—All matters which show the action or counterclaim not to be maintainable, or to be void in law, or which would be likely to take the opposite party by surprise, must be raised on the pleadings ,, 15.

Inconsistency.—No pleading must, except by way of amendment, raise any new ground of claim or contain any allegation inconsistent with the previous pleadings of the party pleading . ,, 16.

Denial must be specific.—Every allegation of fact (except damages) of which the party pleading does not admit the truth must be denied specifically, not generally . . . . . ,, 17.

Joinder of issue.—Plaintiff may join issue upon defence by his reply, and each party in his pleading subsequent to reply may join issue upon the previous pleading. Such joinder of issue will operate as a denial of every material allegation of fact in the previous pleading, but may except admitted facts, and will then operate as a denial of the facts not so admitted . ,, 18.

Evasive denial.—When a party denies an allegation of fact in the previous pleading, he must not do so evasively, but answer the point of substance . . . . . ,, 19.

Denial of contract.—A bare denial of a contract, promise, or agreement, will be construed only as a denial in fact of the contract (express or implied), and not of its legality or sufficiency in law . . . . . ,, 20.

Effect of documents to be stated.—The effect, not the precise

	Order.
words of a document must be stated, unless the precise words are material	XIX. 21.
Allegations of malice, &c.—Malice, fraudulent intention, knowledge, or other condition of mind of any person, and notice to any person of any fact, matter, or thing, must be alleged as facts without circumstances, unless (in the case of notice) the form or precise terms of the notice, or the circumstances from which it is to be inferred, are material	,, 22 & 23.
Implied contract or relation.—Where any contract or any relation between any persons is to be implied from a number of circumstances, &c., such contract or relation must be alleged as a fact, and the circumstances be referred to generally . . .	,, 24.
Presumption of law.—Presumption of law in pleader's favour need not be alleged, unless specifically denied	,, 25.
Technical objection.—No technical objection must be raised to any pleading	,, 26.
Striking out pleadings.—The Court or a Judge may strike out any matter in a pleading, unnecessary, or scandalous, or tending to prejudice, embarrass, or delay the fair trial of the action .	,, 27.

Section I.—Generally.

(*Dan. Pr.*, pp. 374—400, ccclvii.—ccclxi.)

(1.) *Pleading Matters arising pending the Action* (*b*).

(*b*) *Pleading Matters arising pending the Action.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Before defence or reply.—Any ground of defence which has arisen after action brought, but before delivery of defence, and before expiration of the time limited for delivery, may be raised in the defence. If, after delivery of defence, any ground of defence arises to any set-off or counterclaim alleged therein, it may be raised by plaintiff in his reply	XXIV. 1.
Further defence or reply.—Any ground of defence arising after delivery of defence, or expiration of time for delivery, and any ground of defence to any set-off or counterclaim arising after reply, or expiration of time for reply, may, within *eight days* after such ground of defence has arisen, or subsequently, by special leave, be pleaded in a further defence or further reply .	,, 2.
Confession of defence.—Plaintiff may deliver a confession of defence, and may sign judgment for his costs up to the time of the pleading of such defence	,, 3.

461.

Summons for leave to deliver a further defence (*c*). [Dan. Pr. 376.]

Formal parts : see Form 43.

on the part of the defendant, that

If the application is not made until after the expiration of eight days

(*c*) See R. S. C. Ord. XXIV. 2 ; and note (*b*), *supra.* For form of order, see 2 Seton, 1630, No. 12. Matters arising after action brought should be pleaded as so arising: *Ellis* v. *Munson*, 35 L. T. 585 ; otherwise the opposite party may apply for amendment of the pleading: see *Brooks* v. *Jennings*, L. R. 1 C. P. 476 ; *Tetley* v. *Wanless*, L. R. 2 Exch. 21, 24 ; Chitty's Forms, 174, note (*a*).

from the time at which the new ground of defence arose, add: notwithstanding the expiration of the time limited by the Rules of the Supreme Court, Order XXIV., rule 2,

he may be at liberty on or before the —— day of ——, 188—, to deliver a further defence in this action, setting forth a ground of defence to the plaintiff's claim which has arisen since the delivery of the defence [*or*, since the expiration of the time limited for delivering a defence] in this action; and that the costs of this application may be costs in the action.

462.

Affidavit in support. [Dan. Pr. 376, note (*s*).]

Formal parts: *see* Form 6.

1. The defence in this action was delivered [*or*, The time limited for delivering a defence in this action expired] on the —— day of ——, 188—.

2. (*State the ground of defence which has arisen since the delivery of the defence, or since the expiration of the time for so doing, and the date on which such ground of defence arose; as thus:* On the —— day of ——, 188—, by a deed of release bearing date on that day, and made between the plaintiff of the one part and the defendant of the other part, under the hand and seal of the plaintiff, and duly executed and delivered by him, the plaintiff released the defendant from all liability under or by virtue of the contract for the supply of 1,000 tons of coal mentioned in the first paragraph of the statement of claim in this action, and from all actions, claims, and demands by the plaintiff upon, by virtue of, or in respect of the said contract).

3. (*If the application is not made until after the expiration of eight days from the time when the new ground of defence arose, here account for the delay in making the application.*)

463.

Summons for further time to deliver further defence (*d*). [Dan. Pr. 376, note (*s*).]

Formal parts: *see* Form 43.

on the part of the defendant, that he may have —— days further time to deliver his further defence in this action, pursuant to the order dated (*Order for leave to deliver further defence*); [*If time limited*

(*d*) As to the time within which a further statement of defence should be delivered, see R. S. C. Ord. XXIV. 2; and note (*b*), *supra*. It would seem from the language of the rule that a further defence may be delivered without leave, within *eight days* after the ground of defence has arisen: see Chitty's Forms, 175, note (*b*). As to enlargement of the time, see R. S. C. Ord. LXIV. 7. Before issuing a summons to enlarge the time, application should be made for the written consent of the other party: see R. S. C. Ord. LXIV. 8; otherwise the costs of summons may be disallowed under the provisions of R. S. C. Ord. LXV. 27 (24). If a summons is issued and an order made thereon, such order need not be drawn up, unless it contains any special directions: see R. S. C. Ord. LII. 14. A fee of 3*s*. is payable on the memorandum to be signed by the chief clerk under the last mentioned rule: by a stamp impressed or adhesive: see Ord. as to S. C. Fees, 1884, Sched. No. 67; Ord. as to Fees, &c., July, 1884, p. 9.

by the order has expired, add: "notwithstanding the time limited has expired;"] and that the costs of this application may be costs in the action.

464.

Further defence. [Dan. Pr. 376.]

(*Title and reference to the record.*)

Further Defence.

1. By a deed of release, dated the —— day of ——, 188—, made between the above-named plaintiff A. B. of the one part and the above-named defendant E. F. of the other part, under the hand and seal of the plaintiff and duly executed and delivered by him, the plaintiff released the defendant from all liability under or by virtue of the contract for the supply of 1,000 tons of coal mentioned in the first paragraph of the statement of claim in this action, and from all actions, claims, and demands by the plaintiff upon, by virtue of, or in respect of the said contract.

Delivered the —— day of ——, 188—, pursuant to order dated the —— day of ——, 188—.

by X. Y., of —— (agent *f*or G. H., of ——), solicitor for the above-named defendant E. F. [*or*, by E. F., defendant in person].

465.

Confession of defence arising after commencement of action (*e*). [Dan. Pr. 376.]

Formal parts: see Form 37.

The plaintiff confesses the defence stated in the —— paragraph of the defendant's defence [*or*, of the defendant's further defence] in this action.

Delivered the —— day of ——, 188—,

(Signed) by X. Y., of ——,

Plaintiff's Solicitor.

466.

Judgment for costs upon confession (*f*). [Dan. Pr. 376, 377.]

(*Title and reference to the record.*)

The —— day of ——, 188— (*Date of entering judgment*).

The defendant in his defence [*or*, further defence] herein having alleged a ground of defence which arose after the commencement of this action, and the plaintiff having on the —— day of ——, 188—, delivered a confession of that defence: It is this day adjudged that the plaintiff recover against the defendant costs to be taxed.

The above costs have been taxed and allowed at £——, as appears by a Taxing Officer's certificate, dated the —— day of ——, 188—.

(*e*) See R. S. C. Ord. XXIV. 3, App. B., No. 5; and note (*b*), *supra*. As to the effect of such a confession of defence, see Dan. Pr. 377; Wilson, 282; Ann. Pr. 280; *Tetley* v. *Wanless*, L. R. 2 Exch. 21, 24. A counter-claim and set-off is a defence within this rule: *Wood* v. *Goodwin*, W. N. (1884), 17.

(*f*) See R. S. C. Ord. XXIV. 3; App. F., Form 15. For another form of judg-

467.
Summons for leave to deliver a further reply (*g*).
[Dan. Pr. 376.]

Formal parts: see Form 43.

on the part of the plaintiff, that

If the application is not made until after the expiration of the eight days from the time at which the new ground of reply arose, add: notwithstanding the expiration of the time limited by the Rules of the Supreme Court, Order XXIV., rule 2,

he may be at liberty on or before the —— day of ——, 188—, to deliver a further reply in this action setting forth a ground of defence to the set-off [*or*, to the counter-claim] set up by the defendant, which has arisen since the delivery of the reply [*or*, since the expiration of the time limited for delivering a reply] in this action; and that the costs of this application may be costs in the action.

468.
Affidavit in support.
[Dan. Pr. 376.]

(*See* Form 462, *which can be readily adapted.*)

469.
Summons for further time to deliver further reply (*h*).
[Dan. Pr. 376.]

(*Same as* Form 463, *substituting* plaintiff *for* defendant, *and* reply *for* defence.)

470.
Further reply (*i*).
[Dan. Pr. 376.]

(*Title and reference to the record.*)

Further Reply.

1. (*Set forth the ground of defence to the set-off or counter-claim of the defendant which has arisen since the delivery of the reply, or since the expiration of the time limited for delivering a reply; see* Form 464.)

Delivered the —— day of ——, 188— (*Conclude as in* Form 464, *substituting* plaintiff *for* defendant.)

ment, see 2 Seton, 1641, No. 7. On entering the judgment a duplicate of the confession, and the Taxing Master's certificate, must be produced to the officer entering it. As to the fee payable on entering the judgment, see Form 442, note (*h*).

(*g*) See R. S. C. Ord. XXIV. 2; and note (*b*), *supra*. For form of order, see 2 Seton, 1631, No. 16.

(*h*) As to the time within which a further reply should be delivered, see R. S. C. Ord. XXIV. 2; and note (*b*), *supra*.

(*i*) See R. S. C. Ord. XXIV. 2. As to counter-claim by defendant in respect of matters arising after action brought, see *Toke* v. *Andrews*, 8 Q. B. D. 428: 30 W. R. 659.

(2.) *Amending Pleadings* (*j*).

(*j*) *Amending Pleadings.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
1. *Voluntary Amendments.*	
A. *Amending without leave.*	
Statement of claim.—May be amended once before expiration of time limited for reply (i.e. *twenty-one days* from delivery of last defence, Ord. XXIII. 1), and before reply, or, if no defence delivered, within *four weeks* from last appearance	XXVIII. 2.
Set-off or counterclaim.—May be amended before expiration of time allowed for answering reply, and before such answer (i.e. *four days*, Ord. XXIII. 3), or if no reply, within *twenty-eight days* from defence	,, 3.
Disallowance of amendment.—Opposite party may apply, within *eight days* after delivery of the amended pleading, for disallowance of the amendment	,, 4.
Costs.—Costs of and occasioned by an amendment without leave must be borne by the party making the same, unless otherwise ordered	,, 13.
Pleading to amended pleading under rules 2 *and* 3.—The opposite party must plead to amended pleading, or amend his pleading, within the time he then has to plead, or within *eight days* after delivery of amendment, whichever shall last expire. If no pleading or amendment delivered within the above times, the opposite party will be deemed to rely on his original pleading in answer to the amendment.	,, 5.
B. *Amending by order.*	
General power of Court.—The Court or a Judge may, at any stage, allow either party to amend his pleadings on such terms as may be just, and all such amendments shall be made as may be necessary for determining the real questions in controversy between the parties . . .	,, 1 & 12.
Application: when and how made.—Application may be made to the Court or a Judge, or to the Judge at the trial	,, 6.
Time for amending after leave, and effect of neglect.—If amendment not made within the time limited by the order, or (if none limited) within *fourteen days* from date of order, the order will, on the expiration of such respective times, become *ipso facto* void, unless the time is extended . .	,, 7.
Enlarging time to amend.—	
1. By order	LXIV. 7.
2. By consent in writing without order	,, 8.
2. *Compulsory Amendments.*	
Striking out.—The Court or a Judge may order to be struck out or amended any matter in a pleading which may be unnecessary, scandalous, or tending to prejudice, embarrass, or delay the fair trial of the action	XIX. 27.
A pleading may be struck out on the ground that it discloses no reasonable cause of action or answer . . .	XXV. 4.
Irregularity.—An irregular pleading may be set aside or amended, application for which must be made in reasonable time, and the objections stated in the summons or notice of motion	LXX. 1, 2, 3.
3. *Amendment in other cases.*	
On misjoinder of causes of action.—Where causes of action are wrongly joined the Court may exclude them and direct consequential amendments	XVIII. 9.
On discontinuance.—The Court or a Judge may order a part of the alleged cause of complaint to be struck out, and may, upon the application of the defendant, order the	

ORDER.

whole or any part of his alleged grounds of defence or counterclaim to be withdrawn or struck out . . . XXVI. 1.

On joinder of third parties.—Amendment of pleadings may be directed where a person appears pursuant to third party notice . . . . . XVI. 53.

Exclusion of counterclaim . . . . . XXI. 15.
(See Form 588.)

Striking out defence.—On default of discovery . . . XXXI. 21.
(See Form 1869.)

4. *Miscellaneous provisions as to Amendment.*

Orders to amend when to be drawn up.—A simple order to amend without any special directions need not be drawn up, but the production of a note or memorandum signed by a Judge, registrar, chief clerk, or district registrar, will be sufficient authority for the amendment . . . LII. 14.

Printing amendments.—Amendments must be printed, where they exceed two folios in any one place, or are so numerous or of such a nature as to make the pleading inconvenient to read . . . . . XXVIII. 8.

As to printing generally . . . . . LXVI. 3.

As to delivering copies, &c. . . . . ,, 7.

Marking amendment.—The dates of the order giving leave to amend, and of the amendment being made, must be marked on amended pleading, in prescribed form . . XXVIII. 9.

Delivery of amended pleading.—Amended pleading must be delivered to opposite party within the time allowed for amending . . . . . ,, 10.

Long vacation.—No pleading may be amended in the long vacation . . . . . LXIV. 4.

The time of the long vacation will not be reckoned in time allowed for amendment . . . . . ,, 5.

Costs.—Where plaintiff is directed to pay to defendant the costs of the cause, the costs occasioned to defendant by any amendment of the plaintiff's pleadings will be deemed part of such costs (except as to any amendment rendered necessary by defendant's default); but any sum paid by plaintiff at the time of amendment will be deducted . LXV. 27 (31).

Where plaintiff on taxation is not allowed the costs of amendment, as having been unnecessary, the defendant's costs occasioned by such amendment will be taxed, and the amount deducted from the costs payable by him . . . ,, ,, (32).

471.

Summons for leave to amend a pleading (*k*). [Dan. Pr. 396.]

Formal parts : see Form 43.

on the part of the plaintiff [*or as may be*], that he may be at liberty to amend his statement of claim [*or as may be*] in this action by (*Here specify the amendments which it is desired to make*); [*If*

(*k*) As to the cases in which an amendment may be made without an order, see R. S. C. Ord. XXVIII. 2, 3 ; and note (*j*), *supra*. Having regard to the provisions of R. S. C. Ord. LV. 2 (17), under which applications for leave to amend pleadings are to be disposed of in Chambers, it has not been thought necessary to give any forms of application by motion or petition of course for liberty to amend clerical errors : as to which see Dan. Pr. 396, note (*q*); Dan. Forms, 3rd Ed., 505, 506. No affidavit in support of the application verifying the materiality of the proposed amendments is necessary : *Cargill* v. *Bower*, 4 Ch. D. 78 ; *Chesterfield* v. *Black*, 25 W. R. 409. If the order contains no special directions it need not be drawn up : see R. S. C. LII. 14 ; and note (*j*), *supra*. As to the fee payable on the memorandum, see Form 463, and note (*d*) thereto. See also Form 352 and note (*b*) thereto.

If the application is to amend the statement of claim, and notice of motion for an injunction or a receiver is pending (*l*), *add:* without prejudice to the notice of motion for an injunction [*or*, for a receiver] in this action ;

If the application is to amend the statement of claim and an injunction has been obtained, add: without prejudice to the injunction awarded in this action ;

If the application is to amend the statement of claim and notice of trial has been given (*m*), *add:* without prejudice to the notice of trial in this action ;

(*Conclude*) and that the costs of this application may be costs in the action.

472.

Summons to enlarge time to amend (*n*). [Dan. Pr. 396.]

Formal parts: see Form 43.

on the part of the ——, that he may have —— days further time to amend his statement of —— in this action, pursuant to the order dated the —— day of ——, 188— [*If time has expired, add:* notwithstanding the expiration of the time limited] ; and that the costs of this application may be costs in the action (*n*).

473.

Indorsement on amended pleading (*o*). [Dan. Pr. 397.]

Amended —— day of ——, 188— [pursuant to order of ——, dated the —— day of ——, 188—] (*Omit the words in brackets if amendment not made pursuant to an order*).

474.

Summons to disallow amendments made without an order (*p*). [Dan. Pr. 398.]

Formal parts: see Form 43.

on the part of the defendant [*or*, of the plaintiff ; *or*, of (the defendant) A. B., who has been served with a counter-claim of the defendant C. D. in this action], that

If it is desired to have all the amendments made disallowed, say: the amendments made by the plaintiff [*or*, by the defendant] in his statement of claim [*or*, in his set-off ; *or*, in his counter-claim] in this action

If it is desired to have part of the amendments disallowed, say: the

(*l*) See Dan. Pr. 440.

(*m*) See *Earl de la Warr* v. *Cavendish*, V.-C. W. 22 Dec. 1865, Reg. Lib. A. 2421.

(*n*) As to time to amend, see R. S. C. Ord. XXVIII. 7 ; and note (*j*) at p. 196. As to enlargement of the time, see R. S. C. Ord. LXIV. 7. Before issuing a summons to enlarge the time application should be made for the written consent of the other party : see R. S. C. Ord. LXIV. 8 ; otherwise the costs of the summons may be disallowed, under the provisions of R. S. C. Ord. LXV. 27 (24). As to drawing up an order on the summons, see Form 463, and note (*d*) thereto.

(*o*) See R. S. C. Ord. XXVIII. 9.

(*p*) *Ibid.* 4. For form of order, see 2 Seton, 1523, No. 11.

amendments made by the plaintiff [*or*, by the defendant] in the third, seventh, eighth, and ninth paragraphs of his statement of claim [*or*, of his set-off; *or*, of his counter-claim] in this action; and also the paragraphs numbered 14a, 22, and 23, introduced into the said statement of claim [*or*, the said set-off; *or*, the said counter-claim, [*or as may be*],

may under the Rules of the Supreme Court, Order XXVIII., rule 2 [*or*, rule 3] be disallowed, and that the same may be struck out accordingly, and that the said statement of claim [*or*, the said set-off; *or*, the said counter-claim] may be restored to the state in which it was before such amendments were made; and that the plaintiff [*or*, the defendant] may be ordered to pay the costs of this application.

---

475. Summons to disallow amendments made under an order. [Dan. Pr. 398.]

Formal parts: see Form 43.

on the part of the defendant [*or as may be; see* Form 474], that

If it is desired to have all the amendments disallowed, say: the amendments made by the plaintiff [*or as may be*] in his statement of claim [*or as may be*] in this action,

If it is desired to have part of the amendments disallowed, say: the amendments made by the plaintiff [*or as may be*] in the —— paragraphs of his statement of claim [*or as may be*] in this action, and also the paragraphs numbered ——, introduced into the said statement of ——,

since the order dated the —— day of ——, 188— (*Date of order to amend*), may be disallowed, and that the same may be struck out accordingly, and that the said statement of claim [*or as may be*] may be restored to the state in which it was before such amendments were made; and that the plaintiff [*or as may be*] may be ordered to pay the costs of this application.

---

476. Summons for leave to amend pleading, or plead to amended pleading, notwithstanding the time has expired (*q*). [Dan. Pr. 397.]

Formal parts: see Form 43.

on behalf of the defendant [*or as may be; see* Form 474] that notwithstanding the time limited by the Rules of the Supreme Court, Order XXVIII., rule 5, has expired, he may be at liberty to deliver a defence [*or*, reply; *or*, to amend his defence—*or*, reply—to the statement of claim of the plaintiff—*or*, to the set-off; *or*, the counter-claim of the defendant] in this action, which has been amended by the plaintiff [*or*, the defendant] under the Rules of the Supreme Court, Order XXVIII., rule 2 [*or*, rule 3].

---

477. Notice of motion or summons for payment of costs of matter abandoned by amendment. [Dan. Pr. 441.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant, that the plaintiff may be ordered to pay to

(*q*) See R. S. C. Ord. XXVIII. 5. As to applying for consent to enlargement of the time, see Form 463, and note (*d*) thereto.

the said defendant his costs of this action up to the time of the amendment of the statement of claim in this action ; and also the costs of this application.

478.

The like.

[Dan. Pr. 441.]

Formal parts : see Form 38 *or* 43.

on the part of the plaintiff [*or*, of (the defendant) J. W., who has been served with a counter-claim of the defendant A. B. in this action], that the defendant A. B. may be ordered to pay to the plaintiff [*or*, to the said (defendant) J. W.] his costs of the set-off [*or*, of the counter-claim] set up by the said defendant in this action up to the time of the amendment of the said set-off [*or*, of the said counter-claim] ; and also the costs of this application.

479.

The like.

[Dan. Pr. 441.]

Formal parts : *see* Form 38 *or* 43.

on the part of the defendant [*or as may be ; see* Form 474], that the plaintiff [*or as may be*] may be ordered to pay to the said defendant [*or as may be*] so much of the costs of the said defendant [*or as may be*] of this action as have been occasioned by

the claim for ——, made by the statement of claim [*or*, by the set-off ; *or*, by the counter-claim of the defendant A. B.] in this action ; *or*,

the defence of ——, set up by the defence [*or*, of reply] in this action ; *or*,

the allegations contained in the —— paragraphs of the statement of claim [*or as may be*] in this action ;

and also the costs of this application.

480.

Summons to strike out unnecessary, scandalous or embarrassing matter (*r*).

[Dan. Pr. 387. 389.]

Formal parts : see Form 43.

on the part of the plaintiff [*or as may be ; see* Form 474] that

the statement of claim [*or*, defence ; *or as may be*] in this action (*s*) ; *or*,

the paragraphs numbered —— in the statement of claim [*or as may be*] in this action ; *or*,

the passage commencing with the words " " in the —— line and ending with the words " " in the —— line of the —— paragraph of the statement of claim [*or as may be*] in this action,

(*r*) See R. S. C. Ord. XIX. 27. As to the mode of application, see *Marriott* v. *Marriott*, 26 W. R. 416 ; R. S. C. Ord. LV. 2 (17). For form of order, see 2 Seton, 1523, No. 8.

(*s*) See *Cashin* v. *Craddock*, 3 Ch. D. 376 ; *Preston* v. *Lamont*, 1 Exch. D. 361 ; *Davy* v. *Garrett*, 7 Ch. D. 473.

may be struck out as
unnecessary ; *or*,
scandalous and irrelevant (*t*) ; *or*,
tending to prejudice and embarrass the plaintiff (*u*) ; *or*,
tending to delay the fair trial of this action [*or as may be*] ;
and that the defendant [*or as may be*] may be ordered to pay the costs of this application.

481. Notice of motion or summons to exclude certain causes of action, and to confine action to rest of plaintiff's claim (*v*). [Dan. Pr. 424.]

Formal parts : see Form 38 *or* 43.
on the part of the defendant C. D., that the plaintiff's claim in this action for (*Here specify the causes of action which it is desired to exclude*) may be excluded, and that this action may be confined to the rest of the causes of action mentioned in the statement of claim in this action.

If no statement of claim has been delivered, say : mentioned in the indorsement of claim on the writ of summons in this action.

And that the plaintiff may be ordered to amend the said statement of claim [*or*, the said indorsement of claim] accordingly ; and that the plaintiff may be ordered to pay the costs of this application and of making the said amendment.

(3.) *Particulars.*

482. Particulars of debt, expenses, or damages (*w*).

(*Title and reference to the record.*)

The following are the particulars of the "debt," "expenses," *or* "damages" referred to in the writ of summons herein [*or*, in the statement of claim ; *or*, defence ; *or*, set-off ; *or*, counter-claim ; *or*, in the —— paragraph of the statement of claim ; *or as the case may be*], viz. :

(*Here set out the particulars, either in the form of an account, or in such other form as may be most convenient.*)

Delivered the —— day of ——, 188—,
by G. H.,
of ——,
Agent for M. N.,
of ——,
(Plaintiff's) solicitors.

To the (defendant) and
to Mr. ——,
his solicitor or agent.

(*t*) See Dan. Pr. 386—388 ; *Blake* v. *Albion Life Assurance Co.*, 24 W. R. 677.

(*u*) See Dan. Pr. 398 ; *Heugh* v. *Chamberlain*, 25 W. R. 742 ; *Liardet* v. *Hammond Electric Light and Power Supply Co.*, W. N. (1883), 96 : 31 W. R. 710 ; *Harris* v. *Jenkins*, 22 C. D. 481 : 31 W. R. 137 ; *Gray* v. *Webb*, 21 C. D. 802 : 31 W. R. 8 ; *Smith* v. *British Marine Mutual Insurance Association*, W. N. (1883), 232 ; *Davis* v. *James*, 26 Ch. D. 778 : 32 W. R. 406. For notes on cases as to scandal, or embarrassment, &c., see 2 Seton, 1524 ; Wilson, 269 ; Ann. Pr. 255—258 ; Dan. Pr. 386—388, 399, 425, 511, 523.

(*v*) See R. S. C. Ord. XVIII. 8, 9.

(*w*) See R. S. C. Ord. XIX. 6 ; and note (*a*), *supra*. Particulars of misrepresentation, fraud, breach of trust, wilful default, or undue influence relied on by the pleader, and in other cases where necessary, are to be given in the pleadings. If the particulars be of debt, expenses, or damages, and exceed three folios, the fact must be so stated, with a reference to full particulars already delivered, or to be delivered with the pleading. The form in the text is taken from Chitty's Forms 213

483.

Summons for particulars (*x*). [Dan. Pr. 446.]

Formal parts: see Form 43.

on the part of the defendant C. D. [*or*, plaintiff], that the plaintiff [*or*, defendant] do within —— days deliver to the defendant's [*or*, plaintiff's] solicitor particulars [*or*, further and better particulars] of (*Here state shortly the particular matter of which the particulars are required; as:*)

the misrepresentation—*or*, fraud; *or*, wilful default; *or*, undue influence—alleged in the —— paragraph of the statement of claim [*or*, defence] of the plaintiff [*or*, defendant].

Or, particulars in writing with dates and items of (*Stating what*) mentioned in the —— paragraph of the plaintiff's [*or*, defendant's] pleading (*describing it*).

And that unless such particulars be delivered within —— days, all further proceedings may be stayed until the delivery thereof (*y*).

484.

Particulars delivered pursuant to order (*z*).

(*Short title and reference to the record.*)

The following are the particulars of fraud [*or as may be*] alleged in the —— paragraph of the plaintiff's statement of claim in this action [*or as may be*], delivered pursuant to order dated the —— day of ——, 188—.

(*Here set out the particulars in accordance with the order.*)

Delivered the —— day of ——, 188—.

To Mr. Z., Defendant's [*or*, plaintiff's] solicitor [*or*, agent].

by X. Y. Plaintiff's [*or*, defendant's] solicitor [*or*, agent].

485.

Summons for leave to amend particulars (*a*).

Formal parts: see Form 43.

on the part of the plaintiff [*or*, defendant], that he may be at liberty to amend the particulars of ——, delivered by him herein, and that the costs of this application may be costs in the action.

(*x*) See R. S. C. Ord. XIX. 7; and note (*a*), *supra*; Chitty's Forms, 217, note (*g*). For form of order for particulars, see R. S. C. App. K., Nos. 12, 13. For form of order for further particulars of counter-claim, see 2 Seton, 1631, No. 13. Where a specific sum is claimed, particulars must be given before the defence is put in: *Blackie* v. *Osmaston*, 28 Ch. D. 119: 33 W. R. 158.

(*y*) See R. S. C. Ord. XIX. 8; and note (*a*), *supra*.

(*z*) See Chitty's Forms, 219.

(*a*) See Chitty's Forms, 219, note (*i*); *Claparede & Co.* v. *Commercial Union Association*, 32 W. R. 151; S. C. (reversed on appeal), 32 W. R. 262.

Section II.—The Statement of Claim (*a*).

(*Dan. Pr.*, pp. 400—443, cccl.xi.—cccl.xiii.)

(*a*) *The Statement of Claim.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Rules as to delivery of:—	
(*a.*) None *can* be delivered where writ specially indorsed under Ord. III. 6	
(*b.*) Subject to provisions of Ord. XIII. 12, none *need* be delivered unless defendant at or within *eight days* after appearing gives notice requiring delivery . .	
(*c.*) Statement of claim to be delivered within *five weeks* from the receipt of notice	
(*d.*) *Voluntary statement of claim.*—Plaintiff may (except as provided in case (*a*) *supra*), deliver a claim either with the writ of summons or before, or within *six weeks* after, appearance	XX. 1.
(*e.*) Where plaintiff delivers a voluntary statement of claim, or defendant unnecessarily requires one, the Court or a Judge may make such order as may be just with regard to the costs thereby occasioned. (See Ord. LXV. 27 (20))	
Claim may be extended beyond relief claimed in writ.—Plaintiff may alter, modify, or extend his claim without amending the indorsement on the writ	,, 4.
Place of trial.—Must be shown in all cases where it is proposed to try elsewhere than in Middlesex	,, 5.
Claim of relief.—Must be specifically stated, either simply or in the alternative, and prayer for general relief unnecessary .	,, 6.
Relief founded on separate facts.—Where plaintiff seeks relief in respect of several distinct grounds, they must be stated, as far as may be, separately and distinctly	,, 7.
Stated or settled account.—In every case where the cause of action is a stated or settled account, the same must be alleged with particulars, except where a statement of account is relied on by way of evidence or admission of any other cause of action which is pleaded	,, 8.

(1.) *Generally.*

486. General form of statement of claim (*b*). [Dan. Pr. 434.]

188—. B. No. —— (*c*).

In the High Court of Justice,
Chancery Division (*c*).
(*Name of Judge* (*c*).)

Writ issued the —— of ——, 188— (*d*).

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant (*e*).

(*b*) See R. S. C. App. C., Sect. I.

(*c*) See R. S. C. Ord. XIX. 11.

(*d*) This is stated in the form in R. S. C. App. C., although the rules nowhere expressly require it.

(*e*) If plaintiff has been wrongly named in the writ, and the misnomer has not been corrected by amendment, it may be corrected in the statement of claim without order. And similarly in the case of a misnamed defendant. The correction should be made in the title; thus: Between A. B. in the writ named C. B. plaintiff, and C. D. in the writ named E. D. defendant: Dan. Pr. 434, 435, and notes (*n*) and (*p*).

Statement of Claim (*ee*).

The plaintiff, &c. } (*Here insert the statement of the plaintiff's claim; see the several forms of claim* (*f*).)
[*or*,]
The plaintiff's claim is, &c. }
The plaintiff claims (*Statement of relief claimed* (*g*).).
Place of trial (*h*).

Signed (*Signature of counsel, or pleader, or solicitor, or party in person, as may be* (*i*).)
Delivered (*ii*) the —— day of ——, 188—,
by X. Y. (*ee*),
of ——,
Plaintiff's solicitor.
Or, A. B. (*ee*),
of ——,
Plaintiff in person.

487.

Summons for further time to deliver statement of claim (*j*).
[Dan. Pr. 436.]

Formal parts: see Form 43.

on the part of the plaintiff, for —— days' further time to deliver his statement of claim in this action (*If time has already expired, add:* notwithstanding the time limited has expired).

488.

Summons for liberty to amend claim.
[Dan. Pr. 439.]

(*See* Form 471.)

(*ee*) See R. S. C. Ord. XIX. 11.

(*f*) This statement must be as brief as the nature of the case will admit: R. S. C. Ord. XIX. 2. It must contain a statement, in a summary form, of the material facts on which plaintiff relies, but not the evidence: the paragraphs being numbered consecutively: *Ibid.*, 4. As to the rules of pleading generally upon which the statement must be framed, see note (*a*), at p. 190. As to rules of pleading with regard to statements of claim, *Ibid.*

(*g*) See R. S. C. Ord. XX. 6.

(*h*) *Ibid.*, 5.

(*i*) *Ibid.*, XIX. 4.

(*ii*) *Ibid.*, XIX., 10, 11. If defendant has not appeared, the statement of claim must be filed: *Ibid.*, 10; LXVII. 4.

(*j*) As to the time for delivery of a statement of claim if demanded, see R. S. C. Ord. XX. 1 (*e*); if delivered voluntarily: *Ibid.* (*d*); and note (*a*), *supra*. As to enlargement of time, see R. S. C. Ord. LXIV. 7. The Taxing Master is not to allow the costs of more than one extension of time, unless satisfied that such extension was necessary, and could not, with due diligence, have been avoided: R. S. C. Ord. LXV. 27 (24). Before issuing the summons, application should be made to defendant or his solicitor for a written consent under R. S. C. Ord. LXIV. 8, otherwise the costs may be disallowed: R. S. C. Ord. LXV. 27 (24). As to the necessity for drawing up an order, see Form 463, note (*d*).

(*See* Form 474 *or* 475.)

489. Summons to disallow amendments. [Dan. Pr. 441—491.]

(*See* Form 480.)

490. Summons to strike out unnecessary, scandalous, or embarrassing matter in claim. [Dan. Pr. 440.]

(*See* Form 483.)

491. Summons for particulars. [Dan. Pr. 446.]

(2.) *Forms of Statement of Claim.*

(*a.*) *In Actions assigned by the Supreme Court of Judicature Act*, 1873, *s.* 34, *to the Chancery Division* (*k*).

492. Statement of claim in an action for administration (*l*).

Formal parts: see Form 486.

The plaintiff is a creditor of X. Y., deceased, of whom the defendant C. D. is executor [*or*, administrator] and the defendant E. F. is heir-at-law [*or*, devisee].

Particulars of the claim:—

Principal due on the bond of the testator [*or*, intestate], dated the —— of ——, 18— . .	£2,000
Interest from the —— of —— at 5 per cent. .	250
	£2,250

The plaintiff claims to be paid the amount due to him, or to have the real and personal estate of the said X. Y. administered.

493. Statement of claim in an action against executors on the footing of wilful default (*m*).

Formal parts: see Form 486.

1. The plaintiff is residuary legatee of A. B. of the City of Bath, who died March 3rd, 1882, having made his will dated March 2nd, 1882, and

(*k*) See R. S. C. App. C., Sect. II.

(*l*) *Ibid.*, No. 1. For form of indorsement, see R. S. C. App. A., Part III., Sect. I., No. 1; and Form 205. For form of defence, see App. D., Sect. II.; and Form 549.

(*m*) See R. S. C. App. C., Sect. II., No. 2. As to allegation of wilful default in the statement of claim, see Dan. Pr. 415, note (*u*), and cases there cited; and see *Smith* v. *Armitage*, 24 Ch. D. 727.

appointed the defendants his executors, who proved his will April 6th, 1882.

2. The defendants have been guilty of wilful default in not getting in certain property of the testator.

3. The wilful default on which the plaintiff relies is as follows:—

C. D. owed to the testator 1,000*l.*, in respect of which no interest had been paid or acknowledgment given for five years before the testator's death. The defendants were aware of this fact, but never applied to C. D. for payment until more than a year after testator's death, whereby the said sum was lost.

The plaintiff claims:—

(1.) Account of testator's personal estate on footing of wilful default.

(2.) Administration of the testator's personal estate.

494.

Statement of claim in an action for dissolution of partnership (*n*).

Formal parts: see Form 486.

1. The plaintiff on December 20th, 1875, entered into partnership articles with the defendant for ten years.

2. The defendant has broken the partnership articles as follows:—

a. ——.

b. ——.

c. ——.

The plaintiff claims:—

1. Dissolution.

2. Accounts and inquiries.

3. A receiver and manager.

495.

Statement of claim in an action for accounts (*o*).

Formal parts: see Form 486.

1. The plaintiffs are executors of A., deceased.

2. From the year 1875 till his death A. employed the defendant as his confidential agent in the management of a large building estate at X.

3. The defendant as such agent received large sums of money for the said A., for which he refuses to account.

The plaintiffs claim:—

1. Accounts of all sums received and paid by the defendant as agent of A.

2. Payment of the amount found due.

(*n*) See R. S. C. App. C., Sect. II., No. 3. For form of indorsement, see App. A., Part III., Sect. I., No. 2; and Form 207.

(*o*) See R. S. C. App. C., Sect. II., No. 4.

496.

Statement of claim in an action for foreclosure or sale (*p*).

Formal parts : see Form 486.

1. The plaintiff is mortgagee of lands belonging to the defendant.

2. The following are the particulars of the mortgage :—

(*a.*) (*Date and names of mortgagor and mortgagee.*)

(*b.*) (*Sum secured.*)

(*c.*) (*Rate of interest.*)

(*d.*) (*Property subject to mortgage.*)

(*e.*) (*Amount now due.*)

(*If the plaintiff's title is a derivative title, state shortly the assignments under which he claims.*)

(*If the plaintiff is mortgagee in possession, add :*)

3. The plaintiff took possession of the mortgaged property on the —— of —— 188—, and is ready to account as mortgagee in possession from that time.

The plaintiff claims payment, or, in default, sale, or foreclosure [and possession].

497.

Statement of claim in an action for redemption (*q*).

Formal parts : see Form 486.

1. The plaintiff is mortgagor of lands, of which the defendant is mortgagee.

2. The following are the particulars of the mortgage :

(*a.*) (*Date.*)

(*b.*) (*Sum secured.*)

(*c*). (*Rate of interest.*)

(*d.*) (*Property subject to mortgage.*)

(*If the plaintiff's title is derivative, state shortly the deeds under which he claims.*)

(*If the defendant is mortgagee in possession, add :*)

3. The defendant has taken possession [*or*, has received the rents] of the mortgaged property.

The plaintiff claims to redeem the said premises, and to have the same reconveyed to him [and to have possession thereof].

498.

Statement of claim in an action for raising portions or other charges on land (*r*).

Formal parts : see Form 486.

1. By a settlement on the marriage of A. B. and C. B., dated January 10, 1850, Whiteacre was demised to trustees for 1,000 years

(*p*) See R. S. C. App. C., Sect. II., No. 5. For form of indorsement, see App. A., Part III., Sect. I., No. 4 ; and Form 208. For forms of defence, see App. D., Sect. II., No. 1 ; and Forms 550, 551.

(*q*) See R. S. C. App. C., Sect. II., No. 6. For form of indorsement, see App. A., Part III., Sect. I., No. 5 ; and Form 209. For form of defence, see App. D., Sect. II., No. 2 ; and Form 552.

(*r*) See R. S. C. App. C., Sect. II., No. 7. For form of indorsement, see App. A., Part III., Sect. I., No. 6 ; and Form 210.

on trust after the deaths of A. B. and C. B. to raise 5,000*l.* for the younger children of the marriage who should attain twenty-one.

2. A. B. died February 15, 1870.

3. C. B. died June 10, 1875.

4. There were five children only of the marriage of A. B. and C. B., all of whom are now living and have attained twenty-one. The plaintiff is the second born child.

5. The defendants were on April 5, 1877, appointed trustees of the settlement.

The plaintiff claims:

1. To have 5,000*l.* raised by sale or mortgage and distributed among the persons entitled.

499.

Statement of claim in an action for sale and distribution of proceeds of property subject to any lien or charge (*s*).

Formal parts: see Form 486.

1. On November 12, 1880, A. and the defendant B. deposited with the plaintiff 500 Russian Government bonds as security for a debt of 1,000*l.* and interest at 4 per cent. due from A. and the defendant B. to the plaintiff.

2. A. died March 12, 1881.

3. On March 30, 1881, administration of the estate of A. was granted to the defendant C.

4. 800*l.* and 30*l.* for interest is owing to the plaintiff on the security of the said bonds.

The plaintiff claims:

1. Sale of the said bonds.
2. Application of the proceeds in payment of his debt.
3. Distribution of the surplus among the parties entitled.

500.

Statement of claim in an action for breach of trust (*t*).

Formal parts: see Form 486.

1. By a settlement dated July 3rd, 1872, on the marriage of the plaintiffs' father and mother, of which the defendant A. B. and one C. D. were trustees, the plaintiffs are absolutely entitled on the deaths of their father and mother.

2. On August 5, 1874, C. D. died, and the defendant E. F. was appointed in his place.

3. On December 1, 1879, the plaintiffs' father died.

4. On January 1, 1880, the plaintiffs' mother died.

5. The defendants have committed the following breaches of trust by:

(*a.*) Sale of 3,000*l.* Bank Stock and investment of the proceeds in the business of the defendant A. B.

(*b.*) Sale of leasehold property worth 5,000*l.* to G. H. for 1,000*l.*

(*s*) See R. S. C. App. C., Sect. II., No. 8.
(*t*) *Ibid.*, No. 9.

[without taking any proper steps to ascertain its value or to obtain such value].

The plaintiffs claim :

(1.) The replacement of 3,000*l.* Bank Stock, and 5*l.* per cent. interest on the proceeds of the Bank Stock sold from the date of sale till replacement.

(2.) Payment of 4,000*l.* and interest at 5 per cent. per annum from the date of the sale.

---

501. Statement of claim in an action for execution of a trust (*u*).

Formal parts : see Form 486.

1. By a settlement dated June 10, 1856, upon trust for A. B. and C. B. successively for life, with remainder for their children who should attain twenty-one, the following property was assured :—

(*a.*) A sum of 5,735*l.* 14*s.* 2*d.* consolidated 3*l.* per cent. annuities.

(*b.*) 4,000*l.* invested on mortgage of land at X.

(*c.*) One-fifth of the residuary estate of D. deceased, subject to a prior life interest.

2. On August 15, 1862, C. B. died.

3. On February 18, 1875, A. B. died.

4. On September 10, 1879, D. died.

5. A. B. and C. B. had five children only, of whom the plaintiff is one.

6. The defendants are the present trustees of the settlement.

The plaintiff claims :

(1.) Execution of the trusts of the settlement.

(2.) All necessary accounts and inquiries.

(3.) A receiver.

502. Statement of claim in an action for rectification of an instrument (*v*).

Formal parts : see Form 486.

1. In 1865 a marriage was arranged between A. B. and the plaintiff.

2. By an agreement contained in two letters, dated February 10 and 12, 1865, it was agreed between C. B., the father of A. B., and D., the father of the plaintiff, that each should settle 10,000*l.* on trust for A. B. and the plaintiff successively for life, with remainder on the usual trusts for the children of the marriage.

3. By letter, dated March 7, 1865, from D. to Messrs. E. & Co., his solicitors, he instructed them to prepare a settlement.

4. A settlement, dated April 25, 1865, was executed upon the marriage of A. B. and the plaintiff, accidentally omitting to give a life interest to the plaintiff after the life interest of A. B.

5. On May 20, 1882, A. B. died.

6. The defendants H. and K. are the present trustees of the settlement.

7. The defendants L., M., and N., are the only children of the marriage.

The plaintiff claims :

Rectification of the settlement.

(*u*) See R. S. C. App. C., Sect. II., No. 10. For form of indorsement, see App. A., Part III., Sect. I., No. 7 ; and Form 211.

(*v*) See R. S. C. App. C., Sect. II., No. 11. For form of indorsement, see App. A., Part III., Sect. I., No. 8 ; and Form 212.

503.

Statement of claim in an action for specific performance (*w*).

Formal parts: see Form 486.

1. By an agreement [*or*, letters] dated [*or*, made verbally at interviews on or about] the —— day of ——, the plaintiff agreed to sell to the defendant the Home Farm, Kent, for £——. The sale was to be completed on the —— of ——.

(*If the agreement was verbal, add:*)

2. The agreement so entered into has been part performed as follows (*State how*).

The plaintiff claims specific performance of the above agreement, and that the defendant may be ordered to execute a proper conveyance of the premises to the plaintiff (*Stating in each case what the defendant is required specifically to do*).

504.

Statement of claim in an action for partition or sale of real estate (*x*).

Formal parts: see Form 486.

1. By will, dated January 5, 1864, A. devised Whiteacre to B., C., and D. as tenants in common.

2. On March 10, 1865, A. died.

3. On March 20, 1865, A.'s will was proved.

4. On June 25, 1867, B. conveyed to the plaintiff his share of Whiteacre.

5. On July 30, 1869, C. conveyed his share to the defendants on trust for sale.

6. By will, dated November 5, 1872, D. devised his share among his children equally.

7. On December 2, 1872, D. died.

8. On December 15, 1872, D.'s will was proved.

9. There were ten children of D. living at his decease, some of whom have since died.

[10. Whiteacre consists of a mansion, house, and grounds.

11. A sale of the property and a division of the proceeds will be more beneficial than a division of the property.]

The plaintiff claims:

A division of Whiteacre among the parties interested.

[*Or*, a sale of Whiteacre and distribution of the proceeds among the parties interested.]

505.

Statement of claim in an action for wardship of infant and care of infant's estate (*y*).

Formal parts: see Form 486.

1. By will, dated August 10, 1882, A. devised Whiteacre and 10,000*l.* to defendant on trust for plaintiff.

2. On August 15, 1882, A. died.

(*w*) See R. S. C. App. C., Sect. II., No. 12. For form of indorsement, see App. A., Part III., Sect. I., No. 9; and Form 213 For form of defence, see App. D., Sect. II.; and Form 553.

(*x*) See R. S. C. App. C., Sect. II., No. 13.

(*y*) *Ibid.*, No. 14.

3. On August 30, 1882, probate was granted to the defendant, the sole executor.

4. The plaintiff is an infant twelve years old.

The plaintiff claims :

(1.) That the plaintiff may become a ward of Court.

(2.) Administration of the trusts of the will of A. so far as necessary.

(*b.*) *In Actions included in R. S. C., Order III., r. 6.*

(*The indorsement in such case constitutes the Statement of Claim* (*z*). *For forms of indorsement, see* Forms 315—327.)

(*c.*) *In Actions for Damages for Breach of Contract or Duty arising out of Contract.*

506. Statement of claim in an action by buyer against seller of goods for not delivering (*a*).

Formal parts : see Form 486.

1. The plaintiff has suffered damage by breach of contract for sale and delivery by the defendant to the plaintiff of 100 tons of Scotch pig iron at 5*l.* per ton to be delivered on rail at Middlesborough on the 15th of March, 1882.

2. The defendant did not deliver any [*or*, —— tons, *as the case may be*] of the said iron.

Particulars of damage :—

Loss of profit at 1*l.* per ton on 100 tons . . £100

The plaintiff claims 100*l.*

507. Statement of claim in an action by buyer against seller of goods for delivering them inferior to contract (*b*).

Formal parts : see Form 486.

1. The plaintiff has suffered damage by breach of a contract between the plaintiff and the defendant for sale and delivery of 100 sacks of flour known as seconds at 35*s.* per sack.

2. 80 sacks delivered were inferior to seconds, and 20 sacks were not delivered.

Particulars of damage :—

	£
80 sacks at 4*s.*	16
20 sacks at 5*s.*	5
	£21

The plaintiff claims 21*l.*

(*z*) See R. S. C. XX. 1 (*a*). For forms of defence in such cases, see R. S. C. App. D., Sect. IV.; and Forms 554—556.

(*a*) See R. S. C. App. C., Sect. V., No. 1. For form of indorsement, see App. A., Part III., Sect. IV.

(*b*) See R. S. C. App. C., Sect. V., No. 2. For form of indorsement, see App. A., Part III., Sect. IV.

508.

Statement of claim in an action by shipowner against charterer for detention beyond the demurrage days (*c*).

Formal parts: see Form 486.

1. The plaintiff has suffered damage by breach of a charter party dated the 10th of March, 1882, between the plaintiff and the defendant of the ship "Mary."

2. The ship was detained at the port of loading.

Particulars of damage:—

		£
1882 Jan. 1 to Jan. 10	10 days' detention beyond the demurrage days at 25*l.* per day	250

The plaintiff claims 250*l.*

509.

Statement of claim in an action by shipper against master on a bill of lading for damage to goods (*d*).

Formal parts: see Form 486.

1. The plaintiff has suffered damage by breach of contract by bill of lading of goods shipped by the plaintiff on board the "Jane," signed by defendant, dated the 1st of January, 1882.

2. 50 bales of cotton were delivered in a damaged condition.

Particulars of damage:—

50 bales at 2*l.*	£100

The plaintiff claims 100*l.*

510.

Statement of claim in an action by shipper against shipowner on a bill of lading for damage and short delivery (*e*).

Formal parts: see Form 486.

1. The plaintiff has suffered damage by breach of contract by bill of lading of goods shipped by the plaintiff signed by the master of the ship "Mary" as the defendant's agent, dated the 1st of January, 1882.

2. 50 quarters of wheat were delivered in a damaged condition, and 100 quarters were not delivered.

Particulars of damage:—

	£
100 quarters at 40*s.*	200
50 quarters at 4*s.*	10
	£210

The plaintiff claims 210*l.*

511.

Statement of claim in an action on a marine policy against underwriter (*f*).

Formal parts: see Form 486.

The plaintiff was interested to the amount of £—— under a marine

(*c*) See R. S. C. App. C., Sect. V., No. 3. For form of indorsement, see R. S. C., App. A., Part III., Sect. IV.; and Form 275.

(*d*) See R. S. C. App. C., Sect. V., No. 4.

(*e*) *Ibid.*, No. 5.

(*f*) See R. S. C. App. C., Sect. V., No. 6. For form of indorsement, see R. S. C. App. A., Part III., Sect. IV.; and Form 286.

policy of insurance for that amount, dated the —— of ——, 18—, on the ship "Hero," subscribed by the defendant for £——.

Particulars :—

1. Valued or open :—Valued at 20,000*l.*
2. Voyage :—At and from Cardiff to Valparaiso.
3. [*Or*, Time :—From noon of 1st January, 1882, to noon of 1st January, 1883.]
4. Premium to defendant :—£—— per cent.
5. Perils insured against causing loss :—Of the seas.
6. Loss :—Total [*or*, exceeding 3 per cent.].

The plaintiff claims £——.

512.

Statement of claim in an action by passenger against railway company for negligence (*g*).

Formal parts : see Form 486.

The plaintiff has suffered damage from the defendants' negligence in carrying the plaintiff as a passenger by railway from London to Brighton, causing personal injuries to the plaintiff, in a collision near Hayward's Heath on the 15th January, 1882.

Particulars of expenses, &c :—

	£	*s.*	*d.*
Loss of 15 weeks' salary as clerk at 2*l.* per week	30	0	0
Dr. Smith	10	10	0
Nurse for 6 weeks	3	0	0
	£43	10	0

The plaintiff claims 500*l.*

513.

Statement of claim in an action by client against solicitor for negligence (*h*).

Formal parts : see Form 486.

1. The plaintiff has suffered damage from the defendant's negligence in his conduct for the plaintiff, as his solicitor, of business undertaken by the defendant on the plaintiff's retainer.

2. The negligence was in making an application under Order XIV., rule 1, in the case of A. B. (the plaintiff) *v.* C. D., where the case was one of unliquidated damages and not of debt.

Particulars of damage :—

Taxed costs paid to defendant on dismissal of summons £——.

The plaintiff claims £——.

(*g*) See R. S. C. App. C., Sect. V., No. 7. For form of indorsement, see App. A., Part III., Sect. IV.; and Form 291.

(*h*) See R. S. C. App. C., Sect. V., No. 8. For form of indorsement, see App. A., Part III., Sect. IV.; and Form 267.

514.

Statement of claim in an action by landlord against tenant for breach of covenant to repair (*i*).

Formal parts: see Form 486.

1. By a repairing covenant contained in a lease under seal from the plaintiff to the defendant, dated the 1st of January, 1876, of a house, No. 401, Piccadilly, for seven years from the 25th day of December, 1875, the defendant covenanted to keep the premises in such repair and condition as therein mentioned.

2. The premises were during the term out of such repair as was required by the covenant.

3. They were yielded up out of such repair at the expiration of the term.

4. Particulars of dilapidations were delivered to the defendant's solicitor on the —— of ——, 188—, and exceed three folios.

The plaintiff claims £——.

515.

Statement of claim in an action for breach of promise of marriage (*j*).

Formal parts: see Form 486.

1. The plaintiff has suffered damage by breach of promise by the defendant to marry her on the —— day of —— [*or*, within a reasonable time, which elapsed before action] [*or*, on the death of A. B., which happened before action].

2. The defendant refused to marry the plaintiff on the —— of ——, 188— [*or*, within a reasonable time] [*or*, on the death of A. B].

Particulars of special damage :—

(*As the case may be, if any.*)

The plaintiff claims £——.

(*d.*) *In Actions claiming Injunctions, Damages, or Declarations of Right founded on Wrongs.*

516.

Statement of claim in an action for damages for conversion of goods (*k*).

Formal parts: see Form 486.

The plaintiff has suffered damage by the defendant wrongfully depriving the plaintiff of two casks of oil by refusing to give them up on demand [*or*, throwing them overboard out of a boat in the London Docks, *&c.*].

(*If any special damage is claimed, add:*)

Particulars (*Fill them in*).

The plaintiff claims 100*l.*

(*i*) See R. S. C. App. C., Sect. V., No. 9. For form of indorsement, see App. A., Part III., Sect. IV.; and Form 288.

(*j*) See R. S. C. App. C., Sect. V., No. 10. For form of indorsement, see App. A., Part III., Sect. IV.; and Form 293.

(*k*) See R. S. C. App. C., Sect. VI., No. 1.

517.
Statement of claim in an action of detinue (*l*).

Formal parts: see Form 486.

The defendant detained from the plaintiff the plaintiff's goods and chattels, that is to say, a horse, harness, and gig.

The plaintiff claims a return of the said goods and chattels or their value, and 10*l.* for their detention.

518.
Statement of claim in an action for damages for negligent driving (*m*).

Formal parts: see Form 486.

The plaintiff has suffered damage from personal injuries to the plaintiff and damages to his carriage, caused by the defendant or his servant on the 15th of January, 1882, negligently driving a cart and horse in Fleet Street.

Particulars of expenses, &c.

	£	s.	d
Charges of Mr. Smith, surgeon . . .	10	10	0
Charges of Mr. Jones, coachmaker . . .	14	5	6
	£24	15	6

The plaintiff claims 150*l.*

519.
Statement of claim in an action under Lord Campbell's act (*n*).

Formal parts: see Form 486.

The plaintiff, as executor of C. D., deceased, brings this action for the benefit of Eva the wife, and William and Margaret and Dorothea, the children of C. D. [*as the case may be*], who have suffered damage from the defendant's negligence, in carrying the said C. D. by omnibus, whereby the said C. D. was killed in Cornhill on the 15th of January, 1882.

Particulars pursuant to statute are delivered herewith.

The plaintiff claims 500*l.*

520.
Statement of claim in an action for damages for collision of ships (*o*).

Formal parts: see Form 486.

The plaintiff has suffered damage from injuries to his ship, the "Betsy," and the cargo on board thereof, by a collision with the ship, the "Jane," caused by the negligent navigation thereof by the defen-

(*l*) See R. S. C. App. C., Sect. VI., No. 2. For form of indorsement, see App. A., Part III., Sect. IV.; and Form 276.

(*m*) See R. S. C. App. C., Sect. VI., No. 3. For form of indorsement, see App. A., Part III., Sect. IV.; and Form 291.

(*n*) See R. S. C. App. C., Sect. VI., No. 4. For form of indorsement, see App. A., Part III., Sect. IV.; and Form 292.

(*o*) See R. S. C. App. C., Sect. VI., No. 5.

dant or his servants on the river Thames, on the 1st of February, 1883.

Particulars of loss and expenses :—

1. Charges of Jones & Co., shipwrights, 450*l.* 2*s.*
2. Loss of use of ship from 1st of February, 1883, to 1st of March, 1883, 280*l.*

Particulars of damage to cargo :—

(*Insert them.*)

The plaintiff claims £——.

521.

Statement of claim in an action for an injunction for infringement of patent (*p*).

Formal parts : see Form 486.

The defendant has infringed the plaintiff's patent, No. 14,084, granted for the term of 14 years, from the 21st of May, 1880, for certain improvements in the manufacture of iron and steel, whereof the plaintiff was the first inventor.

The plaintiff claims an injunction to restrain the defendant from further infringement, and 100*l.* damages.

Particulars of breaches are delivered herewith.

522.

Statement of claim in an action for damages for infringement of copyright (*q*).

Formal parts : see Form 486.

The defendant has infringed the plaintiff's copyright in a book entitled "The History of Rome," registered on the —— day of ——.

Particulars of special damage are as follows :—

	£
Loss of sale of 50 copies	50
Loss of profit in the copyright	50
	£100

The plaintiff claims 100*l.*

523.

Statement of claim in an action for an injunction, &c. for infringement of trade mark (*r*).

Formal parts : see Form 486.

1. The defendant has infringed the plaintiff's trade mark.
2. The trade mark is (*Describe it*).

(*If the plaintiff is not the original proprietor of the trade mark, show shortly how his title is derived.*)

3. The following are the acts complained of, viz. :—

(*Set them out.*)

The plaintiff claims an injunction to restrain the defendant, his ser-

(*p*) See R. S. C. App. C., Sect. VI., No. 6. For form of indorsement, see App. A., Part III., Sect. IV. ; and Form 304.

(*q*) See R. S. C. App. C., Sect. VI., No. 7. For form of indorsement, see App. A., Part III., Sect. IV. ; and Form 305.

(*r*) See R. S. C. App. C., Sect. VI., No. 8. For form of indorsement, see App. A., Part III., Sect. IV. ; and Form 306.

vants, and agents, from infringing the plaintiff's said trade mark, and in particular from (*Stating any particular injunction sought*).

The plaintiff also claims an account or damages.

524.

Statement of claim in an action for damages for seduction (*s*).

Formal parts : see Form 486.

The plaintiff has suffered damage from the seduction and carnally knowing by the defendant of G. H. the [daughter and] servant of the plaintiff.

Particulars of special damage are as follows ;—

	£	*s.*	*d.*
Loss of service from the 1st of March to the 30th of November, 1882 . . .	100	0	0
Nursing and medical attendance . . .	10	10	0
	£110	10	0

The plaintiff claims 500*l.*

525.

Statement of claim in an action for obstruction of lights (*t*).

Formal parts : see Form 486.

1. The plaintiff is the owner [*or*, lessee] and occupier of a house, 700, Regent Street, in which are the following ancient lights :—

(1.) The kitchen window in the basement on the south side.

(2.) The two back dining room windows on the ground floor on the south side.

(3.) The landing window and back drawing-room window on the south side.

2. The defendant is erecting a building which will, if not stopped, materially diminish the light coming through the said windows.

The plaintiff claims an injunction to restrain the defendant, his contractors, servants, and workmen, from continuing the erection of the building, so as to obstruct or diminish the access of light to the said windows or any of them.

The plaintiff will also, if necessary, claim to have the said building pulled down, or damages for the injury he will sustain if the same is completed and not pulled down.

526.

Statement of claim in an action to restrain a nuisance by smells (*u*).

Formal parts : see Form 486.

The plaintiff has suffered damage from offensive and pestilential smells

(*s*) See R. S. C. App. C., Sect. VI., No. 9. For form of indorsement, see App. A., Part III., Sect. IV. ; and Form 294.

(*t*) See R. S. C. App. C., Sect. VI., No. 10. For form of indorsement, see App. A., Part III., Sect. IV. ; and Form 302. For form of defence, see App. D., Sect. VI. ; and Form 579.

(*u*) See R. S. C. App. C., Sect. VI., No. 11. For form of indorsement, see App. A., Part III., Sect. IV. ; and Form 308.

and vapours caused by the defendant in the plaintiff's dwelling-house, No. 15, James Street, Durham.

The plaintiff claims :—

(1.) 50*l.*

(2.) An injunction to restrain the defendant from the continuance or repetition of the said injury or the committal of any injury of a like kind in respect of the same property.

527.

Statement of claim in an action to restrain a nuisance by pollution of water (*r*).

Formal parts : see Form 486.

1. The plaintiff is the owner [*or*, lessee] and occupier of a farm known as ——, through which there runs a river known as ——.

2. The defendant or persons in his employ pollute the water in the said river by passing into the same the refuse of the defendant's dye works, situate higher up the said river.

The plaintiff claims an injunction to restrain the defendant, his servants and agents, from sending from the said dye works into the said river any matter so as to pollute the waters thereof, or to render them unwholesome or unfit for use, to the injury of the plaintiff [*or as the case may be*].

The plaintiff will also claim damages in respect of the said nuisance.

528.

Statement of claim in an action to recover monies on ground of fraudulent prospectus (*w*).

Formal parts : see Form 486.

1. On 31st January, 1883, the defendant issued a prospectus to the public relating to the A. B. Company, Limited.

2. On Feb. 1st, 1883, the plaintiff received a copy of this prospectus.

3. The plaintiff subscribed for 100 shares in the Company on the faith of this prospectus.

4. The prospectus contained misrepresentations, of which the following are particulars :—

(*a.*) The prospectus stated ". . . . . " whereas in fact . . . . . .

(*b.*) The prospectus stated ". . . . . " whereas in fact . . . . . .

(*c.*) The prospectus stated ". . . . . " whereas in fact . . . . . .

5. The defendant knew of the real facts as to the above particulars.

6. The following facts, which were within the knowledge of the defendant, are material, and were not stated in the prospectus :—

(*a.*)

(*b.*)

7. The plaintiff has paid calls to the Company to the extent of 1,000*l.*

(*r*) See R. S. C. App. C., Sect. VI., No. 12. For form of defence, see App. D. Sect. VI. ; and Form 579.

(*w*) See R. S. C. App. C., Sect. VI., No. 13.

The plaintiff claims :—

(1.) Repayment of 1,000*l.* and interest.

(2.) Indemnity.

529.

Statement of claim in an action for damages for fraudulent sale of a lease (*x*).

Formal parts : see Form 486.

The plaintiff has suffered damage from the defendant inducing the plaintiff to buy the goodwill and lease of the George public-house, Stepney, by fraudulently representing to the plaintiff that the takings of the said public-house were 40*l.* a week, whereas in fact they were much less, to the defendant's knowledge.

Particulars of special damage :—

(*Fill them in.*)

The plaintiff claims £——.

530.

Statement of claim in an action for damages for malicious prosecution (*y*).

Formal parts : see Form 486.

The defendant maliciously and without reasonable and probable cause preferred a charge of larceny against the plaintiff before a justice of the peace, causing the plaintiff to be sent for trial on the charge and imprisoned thereon ; and prosecuted the plaintiff thereon at the Middlesex Quarter Sessions, where the plaintiff was acquitted.

Particulars of special damage :—

Messrs. L. and L.'s bill of costs, 65*l.*

Loss in business from January 1, 1883, to February 18, 1883, 100*l.*

The plaintiff claims 500*l.*

(*e.*) *In Actions for Recovery of Land.*

531.

Statement of claim in an action by landlord against a tenant whose term has expired, &c. (*z*).

(*Same as* Form 327.)

532.

Statement of claim in an action for recovery of land by heir-at-law against stranger (*a*).

Formal parts : see Form 486.

1. The plaintiff is entitled to the possession of Blackacre, in the parish of [*or*, of No. 2, Bridge Street, Bristol], in the county of ——.

(*x*) See R. S. C. App. C., Sect. VI., No. 14.

(*y*) *Ibid.*, No. 15.

(*z*) See R. S. C. Ord. III. 6 (F.). The writ in such case can be specially indorsed. For judgment in default of appearance, see Form 426. For proceedings in case of appearance under R. S. C. Ord. XIV., see Chapter VIII., Sect. I. (*c.*) ; Forms 439—442. For form of defence, see App. D. Sect. VII. ; and Form 581.

(*a*) See R. S. C. App. C., Sect. VII., No. 2. For form of indorsement, see App. A., Part III., Sect. IV. ; and Form 327.

2. On or before the —— of ——, 188—, A. B. was seised in fee and in possession of the premises.

3. On the —— of ——, 188—, the said A. B. died so seised, whereupon—

4. The estate descended to the plaintiff, his eldest son and heir-at-law—

5. After the death of the said A. B. the defendant wrongfully took possession of the premises.

The plaintiff claims :—

(1.) Possession of the premises.

(2.) Mesne profits from the —— of ——, 188 .

Section III.—The Defence (*a*).

(*Dan. Pr.*, pp. 443—511, ccclxiii.—ccclxv.)

(*a*) *The Defence.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Time for delivery :—	
(1.) If statement of claim delivered—within *ten* days from delivery of statement of claim, or from time limited for appearance, whichever shall be last . . .	XXI. 6.
(2.) If no statement of claim delivered or required—within *ten days* after appearance	,, 7.
(3.) Where leave to defend given under Ord. XIV.—within the time limited by the order giving leave to defend, or within *eight days* after the order	,, 8.
Rules of pleading :—	
Specific statement of relief.—Relief claimed in a defence, either simply or in the alternative, must be specifically stated . .	XX. 6.
Relief founded on separate facts.—Where defendant relies on several distinct grounds of defence founded on separate and distinct facts, they must be stated separately and distinctly .	,, 7.
Mere denial insufficient.—In actions comprised in Ord. III. 6, a mere denial of the debt is inadmissible	XXI. 1.
Defences to actions on bills, &c.—In actions on bills of exchange, promissory notes, or cheques, a defence in denial must deny some matter of fact	,, 2.
Defences to actions under R. S. C. Ord. III. 6 (*A. and B.*).—In such cases a defence in denial must deny such matters of fact, from which the liability of the defendant is alleged to arise, as are disputed	,, 3.
Where damages claimed.—No denial or defence is necessary as to damages : they will be deemed to be put in issue unless expressly admitted	,, 4.
Denial of right of person in representative capacity, &c.—The right of any party to claim in a representative capacity, or the alleged constitution of any partnership firm, must be denied specifically	,, 5.
Admissions.—The Court may make such order as shall be just in respect to costs occasioned by the denial or non-admission of allegations of fact which ought to have been admitted .	,, 9.
Pleading general issue.—Where party pleads general issue, intending to give special matter in evidence by virtue of an Act of Parliament, he must insert in the margin of his pleading	

	Order.
the words "by statute," together with the year, chapter and section of the Act, and specify whether Act is public or otherwise.	XXI. 19.
Plea in abatement.—No plea or defence must be pleaded in abatement.	,, 20.
"*Not guilty by statute.*"—No other defence must be pleaded with such defence without leave	XIX. 12.
Plea of possession.—The title of a defendant in an action for recovery of land, where he is in possession by himself or his tenant, need not be pleaded, except in case of defence on equitable grounds. In other cases a defence of possession is sufficient	XXI. 21.

(1.) *Generally.*

533. General form of defence (*b*). [Dan. Pr. 443.]

In the High Court of Justice, 188—. B. No. (*c*).
Chancery Division (*c*).
(*Name of Judge* (*c*).)

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant.

Defence (*c*).

(*If all defendants do not join, say:* Defence of defendant C. D. [*or as may be*]. *If defendant has been wrongly named in the writ, say:* of C. D. in the writ of summons by mistake called E. D. (*d*)).

The defendant says that:

1. } (*Here insert a statement of the defendant's defence: see the*
2. } *several forms of defence* (*e*).)
3. }

Signed (*Signature of counsel, or pleader, or solicitor, or party in person, as the case may be* (*f*)).
Delivered the —— day of ——, 188— (*c*),
by X. Y.,
of ——,
Defendant's Solicitor (*c*).
[*Or*, C. D.,
of ——,
Defendant in person (*c*).]

(*b*) This form is framed from that given in R. S. C. App. D., Sect. I.
(*c*) See R. S. C. Ord. XIX. 11.
(*d*) See Dan. Pr. 508.
(*e*) This statement must be as brief as the nature of the case will admit: R. S. C. Ord. XIX. 2. It must contain a statement, in a summary form, of the material facts on which defendant relies, but not the evidence: the paragraphs being numbered consecutively: *Ibid.* As to rules of pleading generally, upon which the defence must be framed, see note (*a*), at p. 190. As to rules of pleading with regard to defences, *Ibid.*; and note (*a*), *supra*.
(*f*) See R. S. C. Ord. XIX. 4.

534.

Summons for further time to deliver defence (*f*). [Dan. Pr. 509.]

(*Same as* Form 487, *substituting* defendant *for* plaintiff, *and* defence *for* claim.)

535.

Summons for leave to plead other defences in addition to the defence of not guilty by statute (*g*). [Dan. Pr. 445.]

Formal parts: see Form 43.

on the part of the defendant, that in addition to the defence of not guilty by the statute (*Here specify the year, chapter, and section of the statute relied on, and state whether it is a public Act or not*), the defendant may be at liberty to plead by way of defence to the plaintiff's claim in this action, that (*Here specify shortly the nature of the defence which it is desired to plead with not guilty by statute*); and that the costs of this application may be costs in the action.

536.

Summons for liberty to deliver a further defence. [Dan. Pr. 445.]

(*See* Form 461.)

537.

Summons for liberty to amend defence. [Dan. Pr. 510.]

(*See* Form 471.)

538.

Summons to disallow amendments. [Dan. Pr. 511.]

(*See* Forms 474 *and* 475.)

539.

Summons to strike out unnecessary, scandalous, or embarrassing matter in defence (*h*). [Dan. Pr. 511.]

(*See* Form 480.)

(*f*) As to times for delivery of defence, (*a*) if statement of claim delivered; (*b*) if none delivered or required; (*c*) where leave given to defend under Ord. XIV., see R. S. C. Ord. XXI. 6, 7, 8; and note (*a*), *supra*. As to enlargement of time, costs, application for consent before issuing summons, see Form 487, note (*j*). As to necessity for drawing up an order, see Form 463, note (*d*). Time for delivery of defence does not run between the date of issue and date of hearing of a summons under R. S. C. Ord. XIV.: *Hobson* v. *Monk*, W. N. (1884), 8. In *Egerton* v. *Anderson*, W. N. (1884), 95, the words "within eight days after service of the order" were ordered to be struck out of an order giving defendant leave to defend under Ord. XIV.: Field, J., expressing an opinion that the Form in R. S. C. App. K., No. 7, ought to be altered in this respect. A defence, though delivered out of time, ought not to be treated as a nullity: *Gill* v. *Woodfin*, 32 W. R. 393.

(*g*) See R. S. C. Ord. XIX. 12; and note (*a*), *supra*.

(*h*) A paragraph in a defence which merely denies that defendant is indebted to plaintiff will be struck out: *Copley* v. *Jackson*, W. N. (1884), 39. See R. S. C. Ord. XXI. 1.

540.
Summons for particulars.

(*See* Form 483.)

(2.) *Payment into Court by Defendant* (*hh*).

(*hh*) *Payment into Court with or after Defence—Summary of Material Provisions of R. S. C.* 1883.

	Order.
In actions for debt or damages.—Defendant may pay in money— (1.) Before, or at the time of delivering his defence, or later with leave of the Court, by way of satisfaction . (2.) With defence, denying liability	XXII. 1.
Defence to state payment in.—Payment into Court must be signified in the defence, and the claim or cause of action, in satisfaction of which such payment is made, must be specified .	,, 2.
Tender before action.—With a defence of tender before action, the sum alleged to have been tendered must be brought into Court	,, 3.
Payment out to plaintiff.—When liability of defendant, in respect of the claim or cause of action in satisfaction of which the payment into Court is made, is not denied in the defence; or when payment is made with a defence setting up tender—the money will be paid out to the plaintiff, on his request, or to his solicitor on his written authority	,, 5 (*b*) & (*c*).
Where defence denies liability:— (*a*.) Plaintiff may (1) accept the sum paid in, in satisfaction of the cause of action, and will then be entitled to have the sum paid out to him, and all further proceedings in respect of such cause of action will be stayed, except as to costs; or (2) may refuse to accept, and reply accordingly	
(*b*.) If plaintiff accepts the money, he may, after service of notice in the prescribed form, or after reply accepting the money, have the money paid out to himself on request, or to his solicitor on his written authority	,, 6.
(*c*.) If he does not accept the money, it will remain in Court, and only be paid out pursuant to order. If he proceeds and recovers less than the amount paid in, it will be applied so far as is necessary, in satisfaction of his claim, and the balance paid to the defendant. If defendant succeeds as to the whole cause of action the amount will be paid out to him .	
Acceptance of payment in satisfaction.—Where payment is signified in a defence plaintiff may, before reply, accept the sum in satisfaction; he must give notice in the prescribed form, and may after *four days* from service of notice, in case the entire cause of action is satisfied, tax his costs, and in case of nonpayment within *forty-eight hours* after taxation, sign judgment for them	,, 7.
Consolidated Action.—Where money is paid into Court in two or more actions which are consolidated, and plaintiff proceeds to trial and fails, the money paid in and the costs in all the actions will be dealt with in the same manner as in the action tried .	,, 8.
Counterclaim.—A plaintiff may, in answer to a counterclaim, pay money into Court in satisfaction	,, 9.
Money paid into Court under Judge's order, &c.—Money paid into Court under an order will not be paid out except in pursuance of an order. Where before defence defendant has paid in money under Order XIV., he may by his pleading appropriate the whole or any part of such money, and any additional payment, if necessary, to the whole or any portion of plaintiff's claim, and the money so appropriated will be deemed to be money paid into Court pursuant to the rules	,, 11.

	ORDER.
Payment in the Chancery Division.—Is to be subject to the rules for the time being in force under Court of Chancery Funds Act, 1872 (now regulated by Supreme Court Funds Rules, 1884)	XXII. 12.
As to payment into Court before defence (see Forms 456 to 459)	,, 1,4,5(*a*),7.

541.

Summons for leave to pay money into Court by way of satisfaction (*i*).
[Dan. Pr. 447.]

Formal parts: see Form 43.

on the part of the defendant, that he may be at liberty on or before the —— day of ——, 188—, to lodge in Court the sum of £—— in satisfaction of the claim of the plaintiff in this action [*or*, the plaintiff's claim for ——].

542.

Request for lodgment in Court (*j*).

(*See* Form 456. *If the lodgment is made with a defence denying liability, substitute for* in satisfaction of the claim of above-named, *&c., the words* with defence denying liability.)

543.

Paymaster's direction for lodgment.

(*See* Form 457.)

544.

Bank certificate of receipt.

(*See* Form 458.)

545.

Notice by plaintiff accepting sum paid into Court (*k*).
[Dan. Pr. 447.]

(*Same as* Form 445.)

546.

Notice of motion or summons by plaintiff that costs of action be paid by defendant (*l*).
[Dan. Pr. 448.]

Formal parts: see Forms 38 *or* 43.

on the part of the plaintiff, that, the defendant having paid into Court

(*i*) See R. S. C. Ord. XXII. 1; and note (*hh*), *supra*. An order is required unless the money is paid before, or at the time of, delivering the defence.

(*j*) See R. S. C. Ord. XXII. 1, 2, 3; S. C. Funds Rules, 1884, r. 30 (A.) and (B.), App. No. 7. A fee of 1*s.* is payable on the request: by a stamp impressed thereon: see Ord. as to S. C. Fees, 1884, Sched. No. 106; Ord. as to Fees, &c., July, 1884, p. 11.

Lodgments to be distinguished in Pay Office Books.—In every case of a lodgment in the Chancery Division under the provisions of Ord. XXII., the Paymaster is to cause an entry to be made in his books indicating the circumstances under which the money is stated to be lodged: see S. C. Funds Rules, 1884, r. 33. Requests and directions may be sent by post: *Ibid.*, r. 35.

(*k*) See R. S. C. Ord. XXII. 6 (*a*), (*b*), 7; App. B., No. 4.

(*l*) Except in an action for recovery of debt or damages, the Court has a discretion as to costs: see *Nichols* v. *Evens*, 22 Ch. D. 611: 31 W. R. 412. It seems

the sum of £—— in satisfaction of the claim of the applicant in this action [*or*, the claim of the applicant for ——], and the applicant being willing to accept the sum so paid into Court in satisfaction of his said claim [*or*, having given notice accepting the sum so paid into Court in satisfaction, &c.], the costs of the applicant of this action may be paid by the defendant: such costs to be taxed.

(*See* Form 444.)

547. Request for payment of money lodged in satisfaction (*m*).

548. Request for payment of money lodged against claim (*n*).

High Court of Justice,
Chancery Division.

(*Short title and reference to the record.*)

Ledger credit to which money is standing } (*If same title as cause, state* "As above."

To the Assistant Paymaster-General.

I hereby notify that the sum of £—— paid in in the above action has been accepted by the plaintiff in satisfaction, and I declare that due notice has been given of such acceptance thereof, and I request that payment of the said sum may be made to (*Conclude as in* Form 444).

that an order will be necessary (1) where plaintiff does not deliver the notice within the prescribed time; and (2) where the action is not for recovery of debt or damages. If the sum is paid into Court, under Ord. XXII. 1, with a denial of liability, and plaintiff accepts the amount in satisfaction under Rule 6 (*a*), he cannot proceed to tax under Rule 7; see *Crosland* v. *Routledge and another*, W. N. (1883), 228; but see *M'Ilwraith* v. *Green*, 13 Q. B. D. 897.

(*m*) See R. S. C. Ord. XXII. 6 (*a*), (*b*); S. C. Funds Rules, r. 44, A.; and App. No. 11.

(*n*) When money has been lodged against a claim with a defence denying liability under Rule 30 (B), a direction for payment will be issued by the paymaster upon receipt of a notification that the plaintiff accepts the sum lodged in satisfaction, and that due notice has been given of such acceptance, and upon a request for payment of the same: such notification and request to be in the form in the text: S. C. Funds Rules, r. 44, B; and App. No. 11 (B). A fee of 1*s.* is payable on the request: by a stamp impressed thereon: see Ord. as to S. C. Fees, 1884, Sched. No. 106; Ord. as to Fees, &c., July, 1884, p. 11. When a request is made for payment of money lodged on a notice or pleading, the original receipted notice or pleading must be produced at the pay-office: S. C. Funds Rules, r. 44.

(3.) *Forms of Defence.*

(*a*) *To Actions specially assigned by the Supreme Court of Judicature Act, 1873* (*o*), *s.* 34, *to the Chancery Division* (*p*).

549.

Defences to actions for administration (*q*).

Formal parts : see Form 533.

1. The defendants do not admit the plaintiff's claim.

Or,

The defendant A. B. admits the plaintiff's claim, but not assets.

Or,

The defendant C. D. admits assets, but not the plaintiff's claim.

2. The claim is barred by the Statute of Limitations.

(*State which.*)

3. Payment was made by deceased.

4. The claim is fraudulent in the following particulars :

(*Set out particulars.*)

5. The defendant is entitled to a set off, of which the following are the particulars :

(*Set out particulars.*)

6. The claim was released by deed dated the —— of ——.

7. Notice was given and assets distributed under Statute 22 & 23 Vict. c. 35, s. 29.

Particulars of the Notice.

Advertisements in the "Times" of January 1, 1880.
" "New York Herald," February, 1881.
" "Bombay Gazette" of January 25, 1881.

(*Giving the titles of the newspapers, and the dates of those in which the advertisement appeared.*)

8. The personal estate of the testator is sufficient to pay the plaintiff his debt if established.

9. The defendant is not heir-at-law or devisee of the deceased.

550.

Defences to actions for foreclosure by mortgagee (*r*).

Formal parts : see Form 533.

1. The defendant did not execute the mortgage.

2. The mortgage was not assigned to the plaintiff (*If more than one assignment is alleged, say which is denied*).

3. The debt is barred by the Statute of Limitations.

4. Payments have been made, viz. :—

10 July, 1874, 1,000*l.*
18 October, 1875, 500*l.*

(*o*) 36 & 37 Vict. c. 66.

(*p*) See R. S. C. App. D., Sect. II., for the several forms in this section.

(*q*) For form of indorsement, see R. S. C. App. A., Part III., Sect. I., No. 1, and Forms 205 and 206. For form of statement of claim, see App. C., Sect. II., No. 1 ; and Form 492.

(*r*) For form of indorsement, see App. A., Part III., Sect. I., No. 4, and Form 208. For form of statement of claim, see App. C., Sect. II., No. 5 ; and Form 496.

5. The plaintiff took possession on the —— of ——, and has received the rents ever since.

6. The plaintiff released the debt by deed, dated 1 June, 1882.

7. The defendant conveyed all his interest to A. B. by deed, dated 25 November, 1880.

The defendant claims :—

1. Account.

2. Re-conveyance.

551.

Defences to action for foreclosure by alleged second incumbrancer who claims priority.

Formal parts : see Form 533.

1.
2.
3.
4. (*As in preceding Form.*)
5.
6.

7. By a deed dated 1st June, 1880, the mortgagor, A. B., mortgaged the property in question to the defendant to secure 5,000*l.* and interest at 5 per cent. per annum.

The defendant claims :—

1. A declaration of priority and foreclosure (and a receiver).

(*If the plaintiff claims payment of the mortgage debt, the defendant must, if he disputes his liability, show the grounds on which he does so as in other cases of debt ; or he can claim indemnity against the owner of the Equity of Redemption under Order XVI., rule* 48.)

552.

Defences to actions for redemption (*s*).

Formal parts : see Form 533.

1. The plaintiff's right to redeem is barred by the Statute of Limitations (*State which*).

2. The plaintiff assigned all interest in the property to A. B.

3. The defendant by deed, dated the —— day of ——, 188—, assigned all his interest in the mortgage debt and property comprised in the mortgage to A. B.

4. The defendant never took possession of the mortgaged property, or received the rents thereof.

(*If the defendant admits possession for a time only, he should state the time, and deny possession beyond what he admits.*)

553.

Defences to actions for specific performance (*t*).

Formal parts : see Form 533.

1. The defendant did not enter into the agreement.

(*s*) For form of indorsement, see R. S. C. App. A., Part III., Sect. I., No. 5 ; and Form 209. For form of statement of claim, see App. C., Sect. II., No. 6 ; and Form 497.

(*t*) For form of indorsement, see R. S. C. App. A., Part III., Sect. I., No. 9 ; and Form 213. For form of statement of claim, see App. C., Sect. II., No. 12 ; and Form 503.

2. A. B. was not the agent of the defendant (*if alleged by plaintiff*).

3. The plaintiff has not performed the following conditions.—(*Conditions*).

4. The defendants did not (*Alleged acts of part performance*).

5. The plaintiff's title to the property agreed to be sold is not such as the defendant is bound to accept by reason of the following matters ;—(*State why.*)

6. The Statute of Frauds has not been complied with.

7. The agreement is uncertain in the following respects—(*State them*).

8. *Or,* The plaintiff has been guilty of delay ;

9. *Or,* The plaintiff has been guilty of fraud [*or,* misrepresentation] ;

10. *Or,* The agreement is unfair ;

11. *Or,* The agreement was entered into by mistake.

The following are particulars of (8), (9), (10), (11), [*or as the case may be*] (*u*).

12. The agreement was rescinded under Conditions of Sale, No. 11 [*or,* by mutual agreement].

(*In cases where damages are claimed and the defendant disputes his liability to damages, he must deny the agreement or the alleged breaches, or show whatever other ground of defence he intends to rely on,* e.g., *Statute of Limitations, accord and satisfaction, release, fraud, &c.*)

(*b.*) *To Actions included in Order III., Rule* 6, *Classes A., B., C., D., E. and F.*

554.

Defences to actions on bills of exchange, promissory notes or checks (*v*).

Formal parts : see Form 533.

1. The defendant did not accept the bill.

2. The defendant did not make the note.

3. The defendant did not draw the check.

4. The defendant did not indorse to A. B.

5. The defendant [*or,* A. B.] did not indorse to the plaintiff.

6. The bill was not presented for payment.

7. The defendant had not due notice of dishonour.

8. The plaintiff was not the holder at the commencement of the action.

9. The bill was accepted [*or,* the note was made] for the accommodation of the plaintiff without consideration.

10. The bill was accepted for the accommodation of the drawer and indorsed to the plaintiff without consideration.

11. The bill was accepted and delivered to the drawer without con-

(*u*) See R. S. C. Ord. XIX. 6.

(*v*) See R. S. C. App. D., Sect. IV. For forms of indorsement in actions specially indorsed under R. S. C. Ord. III. 6, where actions are on bills of exchange, &c., see R. S. C. App. C., Sect. IV., Nos. 3, 4, 5, 6 ; and Forms 317—320. The indorsement in cases within this rule operates as the statement of claim (Ord. XX. 1 (*a*)), and the defendant cannot require any further statement of claim to be delivered under Ord. XX. 1 (*b*) : see *G. v. H.*, W. N. (1883), 233.

sideration for the purpose of his getting it discounted for the defendant, and the drawer, in fraud of the defendant, and contrary to the said purpose, indorsed the bill to the plaintiff without consideration [*or*, with notice of the said fraud—*or*, overdue].

12. The defendant was induced to accept by the fraud of the drawer, who indorsed to the plaintiff without consideration [*or*, with notice of the fraud—*or*, overdue].

Particulars of the fraud are as follows:—The drawer on or about the 15th of May, 1882, falsely and fraudulently stated to the defendant that he had shipped 20 tons of pig iron for the defendant on board the "Ajax," which he had not done.

13. The defendant accepted the bill [*or*, made the note] for and on account of the price of 50 tons of coal to be delivered by the plaintiff to the defendant by the 1st of May, 1882, and the plaintiff failed to deliver the goods.

14. The bill [*or*, note—*or*, check] was rendered void after issue by a material alteration, viz., by the alteration of the date from the 21st of January to the 2nd of January.

555.

Defences to actions for any simple contract debts, other than bills, notes, or checks (*w*).

Formal parts: see Form 533.

1. The defendant did not order the goods.
2. The goods were not delivered to the defendant.
3. The price was not £——.

Or,

4.
5. } Except as to £——, *same as* { 1.
6. } { 2.
{ 3.

7. The defendant [*or*, A. B., the defendant's agent] satisfied the claim by payment before action to the plaintiff [*or*, to C. D., the plaintiff's agent] on the —— of ——, 188—.

8. The defendant satisfied the claim by payment after action to the plaintiff on the —— of ——, 188—.

556.

Defences to actions on bonds or contracts under seal for the payment of a liquidated amount in money (*x*).

Formal parts: see Form 533.

1. The bond [*or*, deed] is not the defendant's bond [*or*, deed].
2. The defendant made payment to the plaintiff on the day according to the condition of the bond.
3. The defendant made payment to the plaintiff, after the day named and before action, of the principal and interest mentioned in the bond.

(*w*) See R. S. C. App. D., Sect. IV. For form of indorsement, see R. S. C. App. C., Sect. IV., No. 1; and Form 315.

(*x*) For forms of indorsement, see R. S. C. App. C., Sect. IV., Nos. 7, 8; and Forms 321 and 322.

557.

Defences in actions on guarantees, whether under seal or not, where the claim against the principal is in respect of a debt or liquidated demand only. Order III., Rule 6, Class (E.) (*y*).

Formal parts: see Form 533.

1. The principal satisfied the claim by payment before action.

2. The defendant was released by the plaintiff giving time to the principal debtor, in pursuance of a binding agreement.

558.

Defences to any action of debt.

Formal parts: see Form 533.

1. As to £50 parcel of the money claimed, the defendant is entitled to set off for goods sold and delivered by the defendant to the plaintiff. Particulars are as follows:—

	£	*s.*	*d.*
1882, Jan. 25. To 20 tons of Silkstone coal at 1*l.*	20	0	0
„ Feb. 1. To 30 tons of Silkstone coal at 1*l.* .	30	0	0
Total	50	0	0

2. As to the whole [*or*, as to £——, parcel of the money claimed], the defendant made tender before action [*or*, on the day on which it fell due] of £——, and has paid the same into Court.

(*c.*) *General Defences.*

559.

Accord and satisfaction.

Formal parts: see Form 533.

1. On 5th April, 1882, a brown horse was delivered by the defendant to and accepted by the plaintiff in discharge of the alleged cause of action;

Or, On 5th April, 1882, an agreement between the plaintiff and the defendant, whereby it was agreed between the plaintiff and the defendant that the defendant should deliver the cargo of the "Mary" at the Surrey Commercial Docks instead of at Hull, as per charter-party of 1st March, 1882, was accepted in discharge of the alleged cause of action.

560.

Bankruptcy, &c.

2. The defendant became bankrupt.

3. The plaintiff became bankrupt before action, and the cause of action vested in the trustees of his property.

(*y*) For forms of indorsement in actions on guarantees, see R. S. C. App. C. Sect. IV., Nos. 10 and 11; and Forms 324 and 325.

4. The defendant was discharged under a liquidation by arrangement pursuant to the 125th section of the Bankruptcy Act, 1869.

5. The defendant compounded with his creditors under the 126th section of the Bankruptcy Act, 1869, and duly paid to the plaintiff the composition on the day appointed.

561

6. The defendant was covert at the time of making the alleged contract [*or*, contracting the alleged debt]. Coverture.

562.

7. The defendant was an infant at the time of making the alleged contract [*or*, contracting the alleged debt]. Infancy.

563

8. The defendant as to the whole action [*or*, as to £——, parcel of the money claimed—*or*, as to the plaintiff's claim on the guarantee of the —— of ——, 18—, *or as may be*], has paid into Court £——, and says that sum is enough to satisfy the plaintiff's claim [*or*, the plaintiff's claim herein pleaded to]. Payment into Court.

564.

9. The causes of action were released by deed dated the 1st of May, 1882, between the plaintiff of the first part and the defendant of the second part. Release.

565.

10. The contract was rescinded [*or*, the defendant was exonerated by the plaintiff] before breach. Rescission before breach.

Particulars are as follows :—

An arrangement between the plaintiff and the defendant, made verbally on the 15th of April, 1882 [*or*, by letter from the defendant to the plaintiff, and answer of the plaintiff dated the 14th and 15th of April, 1882].

566.

11. The debt was barred by the Statute of Limitations (*State which*). Statute of Limitations.

566 a.

12. (17th) section of the Statute of Frauds has not been complied with. Statute of Frauds.

(*d.*) *To Actions for Damages for Breach of Contract or Duty* (*z*).

567.

Formal parts : see Form 533. Denials.

1. The defendant did not contract [*or*, promise—*or* agree] as alleged.

2. The defendant did not receive the goods for the alleged purpose [*or*, on the alleged terms].

3. The defendant did not receive the plaintiff as a passenger to be carried as alleged.

4. The defendant did not (*Insert breaches denied*).

(*z*) See R. S. C. App. D., Sect. V. For forms of indorsement, see R. S. C. App. A., Part III., Sect. IV.; and Forms 261, *et seq.* For forms of statement of claim, see App. C., Sect. V.; and Forms 506—515.

5. The defendant was not ready and willing to accept and pay for the goods [*or*, to deliver the goods—*or as may be*].

568.
Contributory negligence.

6. There was contributory negligence on part of the plaintiff.

569.
Carriers.

7. The plaintiff did not pay or tender the money for the carriage.

8. The damage or loss occurred from the inherent vice [*or*, bad condition when received] of the goods [*or*, horse—*or as may be*].

9. The loss occurred by reason of the excepted perils mentioned in the charter-party [*or*, bill of lading], that is to say, the perils of the seas [*or*, fire—*or as may be*].

10. The goods were above the value of 10*l.*, and consisted of articles mentioned in the first section of the Land Carriers Act (11 G. IV. & 1 Will. IV., c. 68), that is to say, silks [*or as may be*], and their value and nature were not declared or any increased charge paid, &c.

570.
Charter-parties.

11. The charter-party was cancelled pursuant to cancelling clause therein, the ships not having arrived at port of loading on or before 1st May, 1882.

12. The alleged liability of the defendant had ceased by reason of cesser clause in the charter-party, the cargo shipped having been worth more at the port of discharge than the freight or demurrage.

571.
Insurance.

13. The loss was not by the perils insured against.

14. The plaintiff was not interested in the subject matter of the insurance.

15. The ship was not seaworthy at commencement of risk [*or*, voyage].

572.
Breach of promise.

16. The plaintiff was not ready and willing to marry the defendant.

(*e.*) *To Actions claiming Injunctions, Damages, or Declarations of Right, founded upon Wrongs* (*a*).

573.
Defences to all actions for wrongs (*aa*).

Formal parts: see Form 533.

1. Denial of the several acts [*or*, matters] complained of.

574.
Defences to actions for detention or conversion of chattels (*b*).

Formal parts: see Form 533.

1. The goods [*or*, chattels—*or as may be*] were not the plaintiff's.

(*a*) For forms in this section, see R. S. C. App. D., Sect. VI. For forms of indorsement, see App. A., Part III., Sect. IV.

(*aa*) This form is, it is believed, in practice held insufficient; a more specific denial must be pleaded.

(*b*) For form of statement of claim, see R. S. C. App. C., Sect. VI., Nos. 1 and 2; and Forms 516 and 517.

2. The goods were detained for a lien to which the defendant was entitled.

Particulars are as follows :—

1882, May 3. To carriage of the goods claimed from London to Birmingham :—

	£	s.
45 tons at 2*s.*	4	10

575.

Defences to actions for personal bodily injuries or injuries to carriages, goods, or animals by trespass or negligence (*c*).

Formal parts : see Form 533.

1. The defendant did the acts complained of in necessary self-defence.

2. There was contributory negligence on the part of the plaintiff [*or*, the plaintiff's servant].

576.

Defences to actions for infringement of a patent (*d*).

Formal parts : see Form 533.

1. The defendant did not infringe the patent.

2. The invention was not new.

3. The plaintiff was not the first or true inventor.

4. The invention was not useful.

5. (*Denial of any other matter of fact affecting the validity of the patent.*)

6. The patent was not assigned to the plaintiff.

577.

Defences to actions for infringement of copyright (*e*).

Formal parts : see Form 533.

1. The plaintiff is not the author [assignee, &c., *as the case may be*].

2. The book was not registered.

3. The defendant did not infringe.

578.

Defences to actions for infringement of trade mark (*f*).

Formal parts : see Form 533.

1. The trade mark is not the plaintiff's.

2. The alleged trade mark is not a trade mark.

3. The defendant did not infringe.

(*c*) For forms of statement of claim, see R. S. C. App. C., Sect. VI., Nos. 3 and 4 ; and Forms 518 and 519.

(*d*) For form of statement of claim, see R. S. C. App. C., Sect. VI., No. 6 ; and Form 521.

(*e*) For form of statement of claim, see R. S. C. App. C., Sect. VI., No. 7 ; and Form 522.

(*f*) For form of statement of claim, see R. S. C. App. C., Sect. VI., No. 8 ; and Form 523.

579.

Defences to actions for obstruction of light (*g*).

Formal parts : see Form 533.

1. The plaintiff's lights are not ancient [*or, deny his other alleged prescriptive rights*].

2. The plaintiff's lights will not be materially interfered with by the defendant's buildings.

Defences to actions for nuisance (*g*).

3. The defendant denies that he or his servants pollute the water [*or*, do what is complained of].

(*If the defendant claims the right by prescription or otherwise to do what is complained of, he must say so, and must state the grounds of his claim*, i.e., *whether by prescription, grant, or what.*)

4. The plaintiff has been guilty of laches, of which the following are particulars :—

1870. Plaintiff's mill began to work.
1871. Plaintiff came into possession.
1883. First complaint.

5. As to the plaintiff's claim for damages, the defendant will rely on the above grounds of defence, and says that the acts complained of have not produced any damage to the plaintiff.

(*If other grounds are relied on, they must be stated*, e.g., *the Statute of Limitations as to past damage.*)

580.

Defences to actions for seduction (*h*).

Formal parts : see Form 533.

1. The said A. B. was not the servant of the plaintiff.

2. The defendant did not seduce and carnally know the said A. B.

(*f.*) *To Actions for Recovery of Land.*

581.

Defences to actions for recovery of land (*i*).

Formal parts : see Form 533.

1. The defendant is in possession of the premises by himself or his tenant (*j*).

2. The defendant had no notice to quit.

(*g*) For forms of statement of claim, see R. S. C. App. C., Sect. VI., Nos. 10 and 11 ; and Forms 525 and 526.

(*h*) For form of statement of claim, see R. S. C. App. C., Sect. VI, No. 9 ; and Form 524.

(*i*) For form of statement of claim, see R. S. S. App. C., Sect. VII., Nos. 1 and 2 ; and Forms 531 and 532.

(*j*) As to this defence, see R. S. C. Ord. XXI. 21 ; *Lyell* v. *Kennedy*, 20 Ch. D. 491 ; *Danford* v. *McAnulty*, 6 Q. B. D. 645 : 29 W. R. 437 ; S. C. (affirmed) 8 App. Cas. 456 : 31 W. R. 817.

Section IV.—Counterclaim and Set-off (*a*).

(*Dan. Pr.*, pp. 512—525, cccLxv.—cccLxvii.)

(*a*) *Counterclaim and Set-off.—Summary of Material Provisions of R. S. C.* 1883.

ORDER.

When it may be pleaded.—A defendant may set off, or set up by way of counterclaim against the claims of the plaintiff, any right or claim, whether such set-off or counterclaim sound in damages or not. Such set-off or counterclaim has the same effect as a cross-action. The Court or a Judge may, on the application of the plaintiff before trial, refuse permission to defendant to avail himself of the set-off or counterclaim . . XIX. 3.

Misjoinder of Plaintiff.—This will not prejudice a defendant's counterclaim . . . . . XVI. 3.

How pleaded.—Where defendant relies on any grounds as supporting a right of counterclaim he must, in his defence, state so specifically by way of counterclaim . . . . . XXI. 10.

Title of counterclaim.—Where defendant sets up a counterclaim raising questions between himself and the plaintiff along with any other persons, he must add to the title of his defence a further title similar to that in a statement of claim, setting forth the names of all the persons who would be defendants in a cross-action; and must deliver his defence to such of them as are parties to the action within the time for delivery to the plaintiff . . . . . ,, 11.

Relief to be specifically stated.—The relief claimed by defendant, either simply or in the alternative, must be specifically stated, and if sought in respect of several distinct grounds, they must be stated separately and distinctly . . . . . XX. 6, 7.

Claim against person not a party to the action.—Such person must be summoned to appear by being served with a copy of the defence, indorsed with a notice in the prescribed form (App. B., No. 2), the service being regulated by the rules relating to service of a writ of summons . . . . . XXI. 12.

Appearance by third party.—Third party must appear as if he had been served with a writ of summons . . . . . ,, 13.

Reply to counterclaim.—Person named in a defence as a party to a counterclaim may reply within the time in which he might deliver a defence if it were a statement of claim . . . . ,, 14.

A reply to a counterclaim is subject to rules applicable to statements of defence . . . . . XXIII. 4.

Amendment.—May be made without leave, before time for pleading to reply (*i.e.*, *four days* from delivery): if no reply, then within *twenty-eight* days from delivery of defence . . XXVIII. 3.

Exclusion of counterclaim.—Plaintiff or any other person named in a counterclaim may, before reply, apply to have counterclaim excluded . . . . . XXI. 15.

Discontinuance.—If action of plaintiff is stayed, discontinued, or dismissed, the counterclaim may nevertheless proceed . . ,, 16.

[*McGowan* v. *Middleton*, 11 Q. B. D. 464: 31 W. R. 835.]

Judgment for balance.—The Court may give defendant judgment for balance if in his favour, or such other relief as he may be entitled to . . . . . ,, 17.

Matter arising pending action.—Where any ground of defence to any set-off or counterclaim arises after reply, or after the time limited for reply has expired, the plaintiff may, within *eight days* after defence has arisen, or, at any subsequent time, by special leave, deliver a further reply . . . . . XXIV. 2.

Non-appearance of plaintiff at trial.—In such case defendant may prove his counterclaim, so far as the burden of proof lies on him . . . . . XXXVI. 32.

ORDER.

Withdrawal of counterclaim.—Defendant may withdraw his counterclaim, with special leave . . . . . XXVI. 1.

Costs.—When issues of fact and law are raised upon a counterclaim, the costs of the several issues respectively, both in law and fact, will, unless otherwise ordered, follow the event . . LXV. 2.

For cases as to counterclaim, &c., collected, see Wilson, 249—252; Ann. Pr. 230—240.

On death of a counterclaiming defendant, his representatives must obtain an order to revive, in order to prosecute the counterclaim: *Andrew* v. *Aitken*, 21 Ch. D. 175: 30 W. R. 701.

(1.) *Generally.*

Counterclaim.

582.

General form of counterclaim (*b*).

The defendant says that:—

1. } (*Here insert a statement of the grounds of counterclaim.*)
2. }

The defendant counterclaims:—

Signed (*c*) (*&c.: Conclude as in Form* 533 (*d*)).

583.

General form of defence and counterclaim (*e*).

In the High Court of Justice, 188— B. No. —— (*c*).
Chancery Division (*d*).
(*Name of Judge* (*d*)).

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant (*d*).

Defence and Counterclaim.

Defence.

The defendant says:—

1. } (*Here state the defences.*)
2. }

Counterclaim.

The defendant repeats paragraph 2 of his defence, and says that:—

3. } (*Here insert a statement of the grounds of counterclaim.*)
4. }

The defendant counterclaims:—

Signed (*&c.: Conclude as in Form* 533 (*d*)).

584.

Title of counterclaim where a third person is made a party (*f*). [Dan. Pr. 513.]

In the High Court of Justice, 188—. B. No. ——
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant.
(by original action.)

(*b*) See R. S. C. Ord. XIX. 4; App. D., Sect. I.
(*c*) *Ibid.*, XIX. 4.
(*d*) *Ibid.*, XIX. 11.
(*e*) *Ibid.*, App. D., Sect. I.
(*f*) *Ibid.*, XXI. 11; and note (*a*), *supra*.

And between the said C. D. . . Plaintiff.
and
the said A. B. and X. Y. . . Defendants.
(by counterclaim.)
Defence and counterclaim of the above-named C. D.

585.
Indorsement on counterclaim for service on a person not a party to the original action (*g*).
[Dan. Pr. 514.]

(*Heading as in* Form 584.)

To the within-named X. Y.

Take notice that if you do not appear to the within counterclaim of the within-named C. D., within eight days from the service of this defence and counterclaim upon you, you will be liable to have judgment given against you in your absence.

Appearances are to be entered at

If the action is proceeding in London, say: the Central Office, Royal Courts of Justice, London.

If the action is proceeding in a district registry, say: the District Registry at ——, in the county of —— (*h*).

586.
Memorandum of ordinary appearance to counterclaim (*i*).
[Dan. Pr. 515.]

(*See* Form 406.)

587.
Notice of appearance.
[Dan. Pr. 515, 354.]

Formal parts: see Form 37; *for title, see* Form 584.

Take notice that I have this day entered an appearance on behalf of X. Y. to the above counterclaim of C. D.

588.
Notice of motion or summons to exclude counterclaim (*j*).
[Dan. Pr. 515—516.]

Formal parts: see Form 38 *or* 43; *for title, see* Form 583 *or* 584.

on the part of the plaintiff; *or,*

on the part of the defendant J. B., who has been served with a counterclaim of the defendant C. D.; *or,*

(*g*) See R. S. C. Ord. XXI. 12; App. B., No. 2.

(*h*) As to appearance to a counterclaim, see R. S. C. Ord. XXI. 13; and note (*a*), *supra*. A third party introduced by counterclaim cannot appear *gratis: Fraser* v. *Cooper, Hall & Co.*, 23 Ch. D. 685: 31 W. R. 714. A counterclaim cannot be served on such party out of the jurisdiction: *Potter* v. *Miller*, 31 W. R. 858. A party introduced by third party notice cannot counterclaim, either against the plaintiff, *Eden* v. *Weardale Co.*, W. N. (1884), 232: 33 W. R. 241; or against the defendant who has served him with notice: *Weaver* v. *Eddington*, 30 Dec. 1884, Chitty, J., at Chambers affirming an order of Master Manley Smith (*ex relatione* Mr. Ribton).

(*i*) See R. S. C. Ord. XXI. 13; App. A., Part II., No. 7.

(*j*) See R. S. C. Ord. XIX. 3; XXI. 15; and note (*a*), *supra*. The application under Ord. XIX. 3, is to be "before trial:" under Ord. XXI. 15, "at any time before reply." For cases in which a counterclaim has been excluded, see Dan. Pr. 515, 516; Wilson, 251, 269; Ann. Pr. 268; Chitty's Forms, 161, note (*l*).

on the part of X. Y., who has been served with a counterclaim of the defendant C. D ;

that the counterclaim of the defendant C. D. in this action

If it is sought to exclude part only of the counterclaim set up, add: whereby he claims (*Specify the particular claim sought to be excluded*)

may be excluded ; and that the said defendant C. D. may be ordered to pay the costs of and occasioned by the said counterclaim, and of this application.

589.

Summons for leave to deliver a further reply to counterclaim (*j*).

(*See* Form 467.)

590.

Summons for liberty to amend counterclaim (*k*).

[Dan. Pr. 518.]

(*See* Form 471.)

591.

Summons to disallow amendments (*l*).

[Dan. Pr. 518.]

(*See* Form 474 *or* 475.)

592.

Summons to strike out unnecessary, scandalous, or embarrassing matter in counterclaim (*m*).

[Dan. Pr. 517.]

(*See* Form 480.)

593.

Summons for particulars of counterclaim or set-off (*n*).

[Dan. Pr. 517.]

(*See* Form 483.)

(2.) *Forms of Counterclaim*

594.

Counterclaim in respect of money lent (*o*).

Formal parts : see Forms 582—584.

The defendant lent 500*l.* to the plaintiff on 1st May, 1882.

The defendant counterclaims 500*l.*

(*j*) See R. S. C. Ord. XXIV. 2. For form of order, see 2 Seton, 1631, No. 16.

(*k*) *Ibid.*, XXVIII. 3, 6, 7.

(*l*) *Ibid.*, XXVIII. 4 ; *Bourne* v. *Coulter*, W. N. (1884), 111.

(*m*) *Ibid.*, XIX. 27 ; *Gray* v. *Webb*, 21 Ch. D. 802 : 31 W. R. 8.

(*n*) *Ibid.*, XIX. 6, 7. For form of order, see 2 Seton, 1631, No. 13.

(*o*) See R. S. C. App. D., Sect. VIII. As to formal parts of a pleading, see R. S. C. Ord. XIX. 11.

595.
Counterclaim for damages (*a*).

Formal parts: see Forms 582—584.

1. The defendant has suffered damage by the plaintiff's breach of a contract for the sale and delivery by the plaintiff to the defendant of 5,000 tons of Merthyr steam coal at 18*s.* 6*d.* per ton F. O. B. at Cardiff by equal monthly deliveries over the first five months of 1882.

2. The April and May instalments were not delivered.

Particulars of the damages:—

Difference between market price in April and May, and the contract price, 2*s.* 6*d.* per ton on 2,000 tons . . . . . 250*l.*

The defendant counterclaims 250*l.*

Section V.—Reply and Subsequent Pleadings (*a*).

(*Dan. Pr.*, pp. 520—525, cccLxvi.—cccLxvii.)

(*a*) *Reply and Subsequent Pleadings.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Reply: when to be delivered.—Within *twenty-one days* after delivery of last of the defences	XXIII. 1.
Reply to counterclaim.—Reply to counterclaim is subject to the rules applicable to defences. (It must therefore be delivered in *ten days* from delivery of counterclaim: Ord. XXI. 6.) . .	,, 4.
Pleading subsequent to reply.—No such pleading, other than a joinder of issue, can be pleaded without leave	,, 2.
Time for delivery.—Every pleading subsequent to reply must be delivered within *four days* from delivery of previous pleading	,, 3.
Joinder of issue.—Where one party simply joins issue upon previous pleading, or makes default in delivering a further pleading (under Ord. XXVII. 13), the pleadings as between such parties will be deemed to be closed	,, 5.
New assignment.—No new assignment is to be used. Everything formerly thus pleaded must be introduced by amendment	,, 6.

596.
General form of reply (*b*).

(1.) *Reply.*

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant.

(*a*) See R. S. C. App. D., Sect. VIII.

(*b*) See R. S. C. App. E., Sect. I. As to formal parts of a pleading, see R. S. C. Ord. XIX. 11. As to what may be pleaded in reply and the cases thereon, see Dan. Pr. 521, 522; Wilson, 248, 257; Ann. Pr. 276, 277.

Reply.

The plaintiff as to the defence says that :—

1. }
2. } (*State any special facts which plaintiff desires to plead in reply.*)

The plaintiff as to the counterclaim says that :—

1. }
2. } (*State reply to counterclaim.*)

Signed (*&c. : Conclude as in Form* 486 (*d*)).

597.

Summons for further time to deliver reply (*e*). [Dan. Pr. 522.]

Formal parts : see Form 43.

on the part of the plaintiff ; *or*,

on the part of (the defendant) C. D., who has been served with a counterclaim of the defendant A. B.,

that he may have —— days further time to deliver his reply to the defence (and counterclaim) of the said defendant [*If time has already expired, add :* notwithstanding the time limited has already expired] ; and that the costs of this application may be costs in the action.

598.

Summons for leave to deliver a further reply to counterclaim (*f*). [Dan. Pr. 523.]

(*See* Form 467.)

599.

Summons for liberty to amend reply (*g*). [Dan. Pr. 523.]

(*See* Form 471.)

600.

Summons to disallow amendments (*h*). [Dan. Pr. 523.]

(*See* Form 474 *or* 475.)

(*d*) See R. S. C. Ord. XIX. 11.

(*e*) As to time for delivering reply, see R. S. C. Ord. XXIII. 1. As to time for delivering reply to counterclaim : *Ibid.*, 4. As to enlargement of time : R. S. C. Ord. LXIV. 7. As to consent : *Ibid.*, 8. As to costs : R. S. C. Ord. LXV. 27 (24), and Form 487, note (*j*). An application to enlarge time for reply ought, in general, to be granted, notwithstanding default, on terms of payment of costs : *Eaton* v. *Storer*, 22 Ch. D. 91 : 31 W. R. 488.

(*f*) See R. S. C. Ord. XXIV. 2 ; *Toke* v. *Andrews*, 8 Q. B. D. 428 : 30 W. R. 659 (counterclaim by plaintiff to defendant's counterclaim in respect of a new cause of action allowed).

(*g*) See R. S. C. Ord. XXVIII. 6.

(*h*) *Ibid.*, XIX. 27.

(*See* Form 480.)

601.
Summons to strike out unnecessary, scandalous, or embarrassing matter in reply (*h*). [Dan. Pr. 523.]

602.
Reply to action on a guarantee to which defence raised of time given to the principal, and counterclaim for non-delivery of goods (*i*).

Formal parts: see Form 596.

Reply.

The plaintiff as to the defence says that :—

1. He joins issue.
2. The agreement giving time to the principal expressly reserved remedies against the surety.

The plaintiff as to the counterclaim says that :—

1. The defendant was not ready and willing to accept and pay for the goods.

603.
Example of a statement of claim, defence, and reply (*j*).

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant.

Statement of Claim.

Statement of claim.

The plaintiff's claim is for work done and materials provided by the plaintiff for the defendant at his request.

Particulars :—

	£	*s.*	*d.*
1882. January 1 to 31 May. To rebuilding house at Wigan, as per contract dated the 24th December, 1881	3,400	0	0
To extras as per account delivered . .	243	0	0
	3,643	0	0
Paid on account	3,000	0	0
Balance due	£643	0	0

The plaintiff also seeks to recover interest on the above balance from the 31st May, 1882, till payment or judgment.

Place of trial :—Lancashire, Northern Division.

Signed (*&c.: Conclude as in* Form 486.)

(*h*) See R. S. C. Ord. XIX. 27.
(*i*) *Ibid.*, App. E., Sect. I.
(*j*) For this form, see R. S. C. App. E., Sect. II.

Defence and counterclaim.

Defence and Counterclaim.

Defence.

Formal parts: same as in Form 583 *or* 584.

The defendant says that :—

1. Except as to 200*l.*, parcel of the money claimed, the architect did not grant his certificate pursuant to the contract.

2. As to 200*l.*, parcel of the money claimed, the defendant brings [*or*, has brought] into Court 200*l.*, and says that sum is enough to satisfy the plaintiff's claim herein pleaded to.

Counterclaim.

The defendant says that :—

1. The contract contained a clause whereby it was provided that the plaintiff should complete the works by the 31st of March, 1882, or in default pay to the defendant 1*l.* a day for every subsequent day during which the works should remain unfinished, and they so remained unfinished for 61 days to the 31st of May.

The defendant counterclaims 61*l.*

Reply.

Reply.

Title: same as in Defence and Counterclaim; other formal parts: same as in Statement of Claim.

The plaintiff says that :—

1. As to the first paragraph of the defence, he joins issue.

2. As to the second paragraph thereof, the plaintiff accepts the £—— in satisfaction.

The plaintiff as to the counterclaim says that :—

3. The liquidated damages were waived by ordering extras and material alterations in the works.

4. The defendant waived the liquidated damages by preventing the plaintiff from having access to the premises till a week after the agreed time.

(2.) *Pleadings subsequent to Reply.*

604.

Summons for leave to deliver a special pleading subsequent to reply (*k*). [Dan. Pr. 524.]

Formal parts: see Form 43.

on the part of the defendant, that he may be at liberty to deliver a rejoinder in this action, traversing and confessing and avoiding [*or as may be*] the allegations in the plaintiff's reply. And that the costs of this application may be costs in the action.

605.

Summons for further time to deliver rejoinder (*l*). [Dan. Pr. 524.]

(*Same as* Form 487, *substituting* rejoinder *for* statement of claim.)

(*k*) See R. S. C. Ord. XXIII. 2. For form of order, see 2 Seton, 1631, No. 17.

(*l*) As to time for delivering pleading subsequent to reply, see R. S. C. Ord. XXIII. 3; and note (*a*), *supra*.

606.
Joinder of issue (*m*).
[Dan. Pr. 524.]

188—. B. No. —— (*n*).

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff.
and
C. D. . . . . Defendant.

Joinder of Issue.

The defendant [*or*, plaintiff] joins issue upon the plaintiff's [*or*, defendant's] reply to his set-off and counterclaim [*or*, "rejoinder"—*or, &c., inserting the description of the pleading upon which issue is joined*].

Signed (*&c.: Conclude as in* Form 533.)

607.
Another form.

Heading and title: see Form 606.

Joinder of Issue.

The defendant joins issue upon the first and second paragraphs of the reply.

Signed (*&c.: Conclude as in* Form 533.)

Section VI.—Proceedings in Lieu of Demurrer (*a*).

(*Dan. Pr.*, pp. 525—547, ccclxvii.—ccclxviii.)

(*a*) *Proceedings in Lieu of Demurrer.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Demurrers abolished	XXV. 1.
Raising points of law by pleadings.—Any party may raise by his pleading any point of law: which shall be disposed of by the Judge who tries the cause at or after the trial. By consent, or by order of the Court or a Judge, such point of law may be set down for hearing and disposed of before the trial . . .	,, 2.
Dismissal of action.—If the decision of such point of law substantially disposes of the whole action, or of any distinct cause of action, ground of defence, set-off, counterclaim or reply therein, the Court or Judge may dismiss the action, or make such other order as may be just	,, 3.

(*m*) As to joinder of issue, see R. S. C. Ord. XIX. 18. As to close of pleadings: *Ibid.*, XXIII. 5.

(*n*) See R. S. C. Ord. XIX. 11.

ORDER.

Striking out pleading where no reasonable cause of action disclosed.—Where pleading discloses no reasonable ground of action or answer, or where action or defence is shown to be frivolous or vexatious, the Court or a Judge may order the action to be stayed or dismissed, or judgment to be entered accordingly, as may be just . . . . . XXV. 4.

Declaratory judgment or order.—Court may make binding declarations of right, whether any consequential relief is or could be claimed, or not . . . . . ,, 5.

As to demurrers, and cases thereon, see Dan. Pr. 525—547; Ann. Pr. 280—282.

608.

Notice of motion or summons that point of law be set down for hearing (*b*). [Dan. Pr. 525—547, cccLxvii.]

Formal parts: see Form 38 or 43.

on the part of the plaintiff [*or*, defendant], that the points of law raised by the defence [*or*, statement of claim *—or as may be*] of the defendant [*or*, plaintiff] in this action (*State point of law raised by the pleading*), may be set down for hearing, and disposed of before the trial of the action, pursuant to the Rules of the Supreme Court, Order XXV. rule 2; and that until such point of law has been disposed of, all proceedings in this action, except for the determination of such question, may be stayed; and that the costs of this application may be costs in the action.

Defences, including Objection in Point of Law.

609.

Defence to action on a guarantee for the price of goods (*c*).

Formal parts: see Form 533.

The defendant says that:—

1. The goods were not supplied to E. F. on the guarantee.

2. The defendant will object that the guarantee discloses a past consideration on the face of it.

610.

Defence to action for verbal slander actionable only by reason of special damage (*d*).

Formal parts: see Form 533.

The defendant says that:—

1. The defendant did not speak or publish the words.

2. The words did not refer to the plaintiff.

3. The defendant will object that the special damage stated is not sufficient in point of law to sustain the action.

(*b*) See R. S. C. Ord. XXV. 2; and note (*a*), *supra*. Where the decision of the point of law will substantially dispose of the whole action, it is not entitled to precedence over other actions in the cause list. If only a preliminary point is to be raised, application should be made to the Court as to setting it down for hearing: *per* Pearson, J., *In re Thornley*, *Woolley* v. *Thornley*, W. N. (1884), 83: 32 W. R. 539; see *Parsons and Another* v. *Burton*, W. N. (1883), 215.

(*c*) See R. S. C. App. E., Sect. III., No. 1.

(*d*) *Ibid.*, No. 2.

611. Defence to action on a marine policy stated to contain clauses that the policy was to be proof of interest and without benefit of salvage (*e*).

Formal parts: see Form 533.

The defendant says that:—

1. The defendant did not make the policy.

2. The loss was not by the perils insured against.

3. The defendant will object that the policy was avoided by 19 Geo. II. c. 37, s. 1.

---

612. Notice of motion or summons to strike out pleading which discloses no reasonable cause of action or answer (*f*). [Dan. Pr. 525—547, cccixvii.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant [*or*, plaintiff], that the statement of claim [*or*, defence—*or*, counterclaim—*or as may be*], may be struck out on the ground that it discloses no reasonable cause of action [*or*, answer—*or as may be*]; and that except for the purposes of the order to be made on this application, all proceedings in this action may be stayed [*or*, that this action may be dismissed—*or*, that judgment may be entered for the plaintiff in accordance with his claim]. And that the costs of the applicant of the action and of this application may be paid by the plaintiff [*or*, defendant—*or as may be*]: such costs to be taxed.

---

613. Notice of motion or summons that frivolous or vexatious action may be stayed or dismissed (*g*). [Dan. Pr. 525—547, cccixvii.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant [*or*, of the defendant C. D.], that all proceedings in this action may be stayed as against the applicant [*or*, that this action may be dismissed], on the ground that it is frivolous and vexatious; and that the plaintiff may be ordered to pay to the applicant his costs of the action and of this application: such costs to be taxed.

Section VII.—Admissions in the Pleadings and Application for Order thereon.

(*Dan. Pr.*, pp. 548—553, cccixviii.—cccixix.)

614. Notice of motion or summons under Order XXXII. 6 (*a*). [Dan. Pr. 551, cccixix.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or*, defendant], that (*Here specify the relief*

(*e*) See R. S. C. App. E., Sect. III. No. 3.

(*f*) See R. S. C. Ord. XXV. 4; and note (*a*), *supra*; *Re Batthyany's Estate*, *Batthyany* v. *Walford*, W. N. (1884), 37: 32 W. R. 379; *Parsons and Another* v. *Burton*, W. N. (1883), 215; *Johnston* v. *Johnston*, 32 W. R. 1016; S. C. 33 W. R. 239.

(*g*) See R. S. C. Ord. XXV. 4; and note (*a*), *supra*; *Burstall* v. *Beyfus*, 26 Ch. D. 35: 32 W. R. 418; *Tarn and Another* v. *Commercial Banking Co. of Sydney*, 12 Q. B. D. 294: 32 W. R. 492.

(*a*) By R. S. C. Ord. XXXII. 6, any party may at any stage of a cause or matter, where admissions of fact have been made, either on the pleadings *or otherwise*, apply to the Court or a Judge for such judgment or order as upon such admissions he may be entitled to, without waiting for the determination of any other question between the parties; and the Court or a Judge may upon such application make such order, or give such judgment, as the Court or Judge may think just. As to notice of admission in a pleading, see R. S. C. Ord. XIX. 13;

claimed, the right to which appears on the pleadings of the opposite party: as thus: an account may be taken of the partnership dealings between the plaintiff and the defendant under the articles of partnership, dated the —— day of ——, 188—, stated in the statement of claim in this action, and that the said partnership may be dissolved).

XXXII. 1. As to giving notice to admit facts, see Ord. XXXII. 4. For cases decided under R. S. C. 1875 (Ord. XL. 11), see Dan. Pr. 548—551; Wilson, 319, 320; Ann. Pr. 344—346; 1 Seton, 30, 31.

Mode of application.—Under the old rule it was provided that the application should be by motion, but the words of the present rule are wide enough to admit of the application being made by summons: see *Padgett* v. *Binns*, W. N. (1884), 10. In *Gough* v. *Heatley*, W. N. (1884), 14: 32 W. R. 385, it was decided by Pearson, J., that the proper course was that a summons should be issued, adjourned into Court, and set down for hearing in the list of adjourned summonses. But in *Cook* v. *Heynes*, W. N. (1884), 75, Kay, J. held that ordinarily the application should be by motion.

Time for making the application.—Plaintiff may move notwithstanding he has joined issue and given notice of trial: *Brown* v. *Pearson*, 21 Ch. D. 716: 30 W. R. 436. Where plaintiff delivered a reply, though out of time, before notice of motion by the defendant, the motion was refused: *Graves* v. *Terry*, 9 Q. B. D. 170: 30 W. R. 748.

Implied admissions by default of pleading.—In such case the action must be set down on motion for judgment: *Caroli* v. *Hirst*, W. N. (1883), 115: 31 W. R. 839.

Cross-claims.—See *Mersey Steamship Co.* v. *Shuttleworth & Co.*, 10 Q. B. D. 468: 31 W. R. 609; 11 Q. B. D. 531: 32 W. R. 245; *Showell* v. *Bowron*, W. N. (1883), 50: 31 W. R. 550.

Form of order.—See 1 Seton, 55, No. 5. For form of direction reserving further consideration: *Ibid.*, 71, No. 3. A fee of 10*s.* is payable on entering the judgment or order: by a stamp impressed thereon: see Ord. as to S. C. Fees, Sched. No. 61; Ord. as to Fees, &c., July, 1884, p. 9.

CHAPTER X.

PROCEEDINGS ON DEFAULT OF PLEADING (*a*).

[(*Dan. Pr.*, pp. 554—564, ccclxix.—ccclxx.)

(*a*) *Default of Pleading.—Summary of Material Provisions of R. S. C.* 1883.

	ORDER.
A. *Default of plaintiff in delivery of statement of claim.*—Where plaintiff, being bound to deliver a statement of claim, does not do so, defendant may, at the expiration of the time for delivery, apply to dismiss for want of prosecution .	XXVII. 1.
B. *Default of defendant in delivery of defence:*—	
(1.) *In actions for debt, or liquidated demand.*—Plaintiff may enter final judgment for the amount claimed and costs, and issue execution thereon against defendant in default, and proceed with the action against those not in default	,, 2, 3.
(2.) *In actions for detention of goods and pecuniary damages, or either of them.*—Plaintiff may enter interlocutory judgment against defendants in default, and proceed with the action against those not in default. The value of the goods, and damages will be assessed by (1) writ of inquiry, or (2) at the trial of the action against defendant not in default, or (3) in any other way the Court may direct	,, 4, 5.
(3.) *In actions for debt or liquidated demand, and also for detention of goods and pecuniary damages, or pecuniary damages only.*—Plaintiff may enter (1) final judgment for debt, and (2) interlocutory judgment for value of goods and damages, and proceed as in Rules 4 and 5	,, 6,
(4.) *In actions for the recovery of land:*	
(*a.*) *Generally.*—Plaintiff may enter judgment for recovery of possession by person whose title is asserted in the writ	,, 7.
(*b.*) *Where claim indorsed for mesne profits, arrears of rent, or double value, or damages for breach of contract.*—Plaintiff may enter judgment against defaulting defendants, and proceed as in Rules 4 and 5	,, 8.
(5.) *Where defence is to part only of claim.*—In actions for debt, liquidated demand, detention of goods and pecuniary damages or for any of such matters, or for recovery of land, if defendant delivers a defence purporting to answer part only of the alleged cause of action, plaintiff may by special leave enter judgment, final or interlocutory, for the part unanswered. The unanswered part must consist of a separate cause of action, or be severable from the rest, as in the case of part of a debt or liquidated demand. Where there is a counterclaim, execution on any such judgment cannot issue without special leave	,, 9.

	Order.
(6.) *In other cases:*—	
(*a*.) *Generally.*—Action may be set down by plaintiff on motion for judgment	XXVII. 11.
(*b*.) *Where there are several defendants.*—Action may be set down at once against defendant in default, if the cause of action is severable, or at the same time as it is entered for trial or set down on motion for judgment against the other defendants	,, 12.
C. *Default in delivery of pleadings subsequent to defence.*—Pleadings will be deemed to be closed, and all material statements of fact in pleading last delivered will be deemed to have been denied and put in issue	,, 13.
D. *Default by third party.*—In any case in which issues arise other than between plaintiff and defendant, on default in pleading the opposite party may apply for such judgment as upon the pleadings he may appear entitled to . . .	,, 14.
E. *Setting aside judgment by default.*—Any judgment by default may be set aside upon such terms as the Court or a Judge may think fit	,, 15.

Section I.—Default in Delivery of a Statement of Claim (*b*).

(*Dan. Pr.*, pp. 554—556, ccclxix.)

615.

Notice of motion or summons to dismiss action for want of prosecution (*c*). [Dan. Pr. 554.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant [*or*, of the defendant A. B.], that this action may stand dismissed

If there are other defendants than the applicant, add: as against the said defendant A. B. (*d*),

for want of prosecution; with costs to be paid by the plaintiff to the said defendant.

(*b*) See R. S. C. Ord. XXVII. 1; and note (*a*), *supra*. As to when a plaintiff is bound to deliver a statement of claim, see R. S. C. Ord. XX. 1 (*b*). Statement of claim must in such case be delivered within *five weeks* after demand: *Ibid.* (*c*).

(*c*) An application to dismiss for want of prosecution should generally be made at Chambers: *Frrason* v. *Lowe*, 26 W. R. 138: W. N. (1877), 245. It should be supported by the certificate of the proper officer (*i.e.*, Clerk at Central Office, or District Registrar) of entry of appearance by the defendants, and by an affidavit of default in delivery of a statement of claim. As to costs of the application, where time given to plaintiff, see *Higginbottom* v. *Aynsley*, 3 Ch. D. 288. As to tender by plaintiff of costs already incurred upon delivery of statement of claim, after notice of motion or summons served, see *Evelyn* v. *Evelyn*, 13 Ch. D. 138; Dan. Pr. 554, note (*f*). For forms of order, see 2 Seton, 1540, No. 1; R. S. C. App. K., No. 15. If time is given to the plaintiff, the order should direct dismissal in default, "without further order:" see 2 Seton, 1542; Wilson, 288; Ann. Pr. 291. As to effect of an order of dismissal, see *Whistler* v. *Hancock*, 3 Q. B. D. 83; Dan. Pr. 555, and note (*k*). A fee of 2*s*. 6*d*. is payable on the certificate of appearance: by a stamp impressed or adhesive, and of 5*s*. on the order: by a stamp impressed thereon: see Ord. as to S. C. Fees, 1884, Sched. Nos. 42 and 66; Ord. as to Fees, &c., July, 1884, pp. 7, 9.

(*d*) A defendant can only have the action dismissed as against himself, not as against other defendants: *Ward* v. *Ward*, 11 Beav. 159: 12 Jur. 592.

616.
Affidavit in support.
[Dan. Pr. 554.]

Formal parts: see Form 6.

1. On the —— day of ——, 188—, I gave notice of appearance (*e*) in this action on behalf of the defendant [*or*, of the above-named defendant A. B.] to the above-named plaintiff [*or*, to Mr. X. Y., the solicitor in this action for the above-named plaintiff] by (*Here describe the mode of service; see* Form 31).

2. By such notice I required a statement of claim to be delivered (*f*).

3. No statement of claim has yet been delivered, and the time for delivery thereof has expired (*g*).

Section II.—Default in Delivery of Defence.

(*Dan. Pr.*, pp. 555—562, ccclxix.—ccclxx.)

(1.) *In an Action for a Debt or liquidated Demand.*

617.
Judgment for default of defence in action for debt or liquidated demand (*h*).
[Dan. Pr. 557.]

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff,
and
C. D. and E. F. . . . Defendants.

—— day of ——, 188— (*date of entering judgment*).

The defendants [*or*, The defendant C. D.] not having delivered any defence: It is this day adjudged that the plaintiff recover against the said defendants [*or*, against the said defendant C. D.] £——, and costs to be taxed (*i*).

(*e*) See R. S. C. Ord. XII. 9, 27.
(*f*) *Ibid.*, XX. 1 (*b*).
(*g*) *Ibid.*, XX. 1 (*c*).
(*h*) See R. S. C. Ord. XXVII. 2, 3; and note (*a*), *supra*. As to time for delivery of defence, see R. S. C. Ord. XXI. 6, 7.
(*i*) See R. S. C. App. F., No. 1; 1 Seton, 7, No. 1. On entering the judgment a copy of the statement of claim, if any, and certificate of appearance must be produced, and two forms of the judgment: see 1 Seton, 13; Dan. Pr. 557. If the statement of claim does not show the date of delivery, the solicitor must indorse such date: 1 Seton, 13. A fee of 2*s.* 6*d.* is payable on the certificate of appearance: by a stamp impressed or adhesive; and of 10*s.* on the judgment: by a stamp impressed thereon: see Ord. as to S. C. Fees, Sched. Nos. 42 and 58; Ord. as to Fees, &c., July, 1884, pp. 7, 9. As to entry of judgment in a District Registry, see R. S. C. Ord. XXXV. 1.

(2.) *In an Action for the Detention of Goods and pecuniary Damages, or either of them.*

618.

Interlocutory judgment for default of defence for the recovery of damages (*j*). [Dan. Pr. 558.]

(*Heading as in* Form 617.)

—— day of ——, 188— (*date of entering judgment*).

No defence having been delivered by the defendants [*or*, the defendant C. D.] herein: It is this day adjudged that the plaintiff recover against the defendants [*or*, against the said defendant C. D.] the value of the goods [*or*, damages—*or both, as the case may be*] to be assessed.

619.

Motion paper for leave to enter judgment for the recovery of specific chattels (*k*). [Dan. Pr. 559.]

Formal parts: see Form 36.

To move on behalf of the plaintiff, that he may be at liberty to enter judgment for default of defence, for the recovery of the chattels mentioned in the statement of claim in this action (*If damages for their detention are claimed, add:* and for damages for the detention thereof).

620.

Summons for like purpose (*k*). [Dan. Pr. 559.]

Formal parts: see Form 43.

on the part of the plaintiff, that he may be at liberty (*Continue as in last form to the end*).

621.

Final judgment for default of defence against sole defendant, or against all defendants (*l*). [Dan. Pr. 559.]

(*Heading as in* Form 617).

—— day of ——, 188— (*date of entering final judgment*).

The defendant [*or*, defendants] not having delivered any defence, and a writ of inquiry dated the —— day of ——, 188—, having been issued directed to the sheriff of —— to assess the damages which the plaintiff was entitled to recover, and the said sheriff having by his return dated the —— day of ——, 188—, returned that the said damages have been assessed at £——: It is adjudged that the plaintiff recover ——, and costs to be taxed.

The above costs have been taxed and allowed at £——, as appears by a taxing officer's certificate dated the —— day of ——, 188—.

(*j*) See R. S. C. Ord. XXVII. 4, 5; App. F., No. 2; and note (*a*), *supra;* and 1 Seton, 8, No. 4. As to entering the judgment, see Form 617, note (*i*). For forms of proceedings on writ of inquiry, see Chitty's Forms, 672—678. As to entering final judgment after damages assessed by writ of inquiry, see Dan. Pr. 558; 1 Seton, 13. For form of such judgment, see R. S. C. App. F., No. 4; 1 Seton, 8, No. 5; Form 621.

(*k*) It is doubtful whether judgment for the return of specific chattels may or may not be entered without an order: *Ivory* v. *Cruickshank*, W. N. (1875), 249.

(*l*) See R. S. C. Ord. XXVII. 4; App. F., No. 4; and note (*a*), *supra*. On entering the final judgment, the interlocutory judgment, the order (if any) as to the mode of assessing the damages, and the sheriff's return and inquisition, or the associate's

(3.) *In an Action for a Debt or liquidated Demand, and also for Detention of Goods and pecuniary Damages, or pecuniary Damages only.*

622. Final judgment for debt, and interlocutory judgment for damages (*m*). [Dan. Pr. 559.]

(*Heading as in* Form 617.)

—— day of ——, 188— (*date of entering judgment*).

The defendants [*or*, The defendant C. D.] not having delivered any defence: It is this day adjudged that the plaintiff do recover against the defendants [*or*, the defendant C. D.] £——; and it is also adjudged that the plaintiff recover against the defendants [*or*, the defendant C. D.] damages in respect of the matters mentioned in the statement of claim in this action [*or*, the value of the goods mentioned in the statement of claim in this action, and also damages for the detention thereof]: such damages [*or*, such value and damages] to be assessed.

623. Final judgment for default of defence after damages assessed.

(*Same as* Form 621.)

(4.) *In an Action for the Recovery of Land.*

624. Final judgment for default of defence for recovery of land (*n*). [Dan. Pr. 559.]

(*Heading as in* Form 617.)

—— day of ——, 188— (*date of entering judgment*).

No defence having been delivered herein: It is this day adjudged that the plaintiff recover possession of the land in the statement of claim herein described as (*Describe the property as in the statement of claim*), and costs to be taxed.

(5.) *In an Action for the Recovery of Land, and also for Mesne Profits, Arrears of Rent or Double Value, or Damages for Breach of Contract.*

625. Final judgment for recovery of land, and for liquidated sum for arrears of rent (*o*). [Dan. Pr. 560.]

(*Heading as in* Form 617.)

—— day of ——, 188— (*date of entering judgment*).

No defence having been delivered in this action: It is this day

certificate, or other document showing the amount at which damages have been assessed, must be produced to the officer by whom judgment is entered. The judgment will be dated as of the day when the documents are so left: R. S. C. Ord. XLI. 4. As to the fee payable on entering the judgment, see note (*i*) to Form 617.

(*m*) See R. S. C. Ord. XXVII. 6; and note (*a*), *supra*; 1 Seton, 8, Nos. 4, 5. As to entering judgment, see Form 617, note (*i*).

(*n*) See R. S. C. Ord. XXVII. 7; and note (*a*), *supra*; 1 Seton, 7, No. 2. This rule applies only to the case where a sole defendant or all the defendants make default in delivering a defence; where some only of the defendants make default, the plaintiff should set down the action on motion for judgment against the defaulting defendants at the time when he enters it for trial, or sets it down on motion for judgment against the other defendants: R. S. C. Ord. XXVII. 12. As to entering the judgment, see Form 617, and note (*i*).

(*o*) See R. S. C. Ord. XXVII. 8; and note (*a*), *supra*. The direction in this rule

adjudged that the plaintiff recover possession of the land in the statement of claim mentioned; and it is also adjudged that the plaintiff recover against the defendants £——, and costs to be taxed.

---

626. Final judgment for recovery of land, and interlocutory judgment for mesne profits or damages (*o*). [Dan. Pr. 560.]

(*Heading as in* Form 617.)

—— day of ——, 188— (*date of entering judgment*).

No defence having been delivered in this action: It is this day adjudged that the plaintiff recover possession of the land in the statement of claim mentioned, and also damages in respect of the matters mentioned in the said statement of claim: such damages to be assessed.

(6.) *Where a Defence is delivered to Part of a Claim only.*

627. Notice of motion or summons for leave to sign judgment for part of claim admitted (*p*). [Dan. Pr. cclxix.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff, that he may be at liberty to enter final [*or*, interlocutory] judgment for £—— [*or*, for damages to be assessed—*or as may be*] in respect of the cause of action alleged in the —— paragraph of the statement of claim [*or as may be*].

(7.) *In any other Action.*

628. Motion for judgment (*q*). [Dan. Pr. 560—562.]

(*Same as* Form 795.)

---

that the plaintiff may after judgment proceed as mentioned in rules 4 and 5, applies only to those cases where the plaintiff's claim is for mesne profits or damages for breach of contract, *i.e.*, for an unliquidated demand, and not where it is for a liquidated sum for arrears of rent: in which case the judgment will be final in the first instance. Where some only of the defendants make default, the plaintiff may, under the above rule, enter final or interlocutory judgment (as the case may be) against the defaulting defendants in respect of his claim for mesne profits, arrears of rent or damages for breach of contract (see Forms 617, 618), but he cannot enter judgment against them for the recovery of the land; in respect of that claim he must set the action down on motion for judgment against the defaulting defendants at the same time that he enters it for trial or sets it down on motion for judgment against the other defendants. As to entering judgment, see Form 617, and note (*i*).

(*o*) *Ibid.*

(*p*) See R. S. C. Ord. XXVII. 9; and note (*a*), *supra*; Chitty's Forms, 186.

(*q*) See R. S. C. Ord. XXVII. 11, 12; and note (*a*), *supra*. As to default of pleading in any case in which issues arise in an action other than between plaintiff and defendant, see R. S. C. Ord. XXVII. 14; and note (*a*), *supra*.

SECTION III.—DEFAULT IN DELIVERY OF REPLY OR SUBSEQUENT PLEADING.

(*Dan. Pr.*, pp. 562—563, cccLxx.)

(*See* Form 615.)

SECTION IV.—SETTING ASIDE A JUDGMENT ENTERED FOR DEFAULT IN PLEADING.

(*Dan. Pr.*, p. 564.)

Formal parts: see Form 38 *or* 43.

on the part of the defendant, that the judgment entered in this action on the —— day of ——, 188— (*If there have been any subsequent proceedings upon such judgment state them; as:* and the writ of —— issued on such judgment on the —— day of ——, 188—), may be set aside; and that the defendant may be at liberty on or before the —— day of ——, 188—,

If no appearance has been entered, say: to enter an appearance and

to deliver a statement of defence in this action.

Formal parts: see Form 6.

1. (*If no appearance has been entered, state the date of the issuing and service of the writ of summons; and in any case state the date of the filing or delivery of the statement of claim, the date of entering the judgment by default, and the subsequent proceedings (if any) which have been taken in the action, and their date. See paragraph* 1 *of* Form 434.)

629. Notice of motion or summons to dismiss action for want of prosecution on default of plaintiff in delivering a reply (*r*). [Dan. Pr. 562.]

630. Notice of motion or summons to set aside judgment regularly entered for default of a defence (*s*). [Dan. Pr. 564.]

631. Affidavit in support. [Dan. Pr. 564.]

(*r*) In default of reply or subsequent pleading within the period allowed for that purpose, the pleadings will be deemed closed; and all material statements of fact in the pleading last delivered will be deemed *to have been denied and put in issue:* R. S. C. Ord. XXVII. 13; and note (*a*), *supra*. The words in italics are new. In R. S. C. 1875, Ord. XXIX. 12, the words were "be deemed to be admitted." If within *six weeks* from the close of the pleadings, or such extended time as may be allowed, the plaintiff has not given notice of trial, the defendant may (1) give notice of trial, or (2) apply to dismiss for want of prosecution: see R. S. C. Ord. XXXVI. 12. As to the practice on application to dismiss, see Form 615, and notes thereto. As to the practice where plaintiff is not in default as to all the defendants, see Dan. Pr. 563; *Ambroise* v. *Evelyn*, 11 Ch. D. 759. The motion may be made by a defendant in default of reply to counterclaim: *Lumsden* v. *Winter*, 8 Q. B. D. 650; *Caroli* v. *Hirst*, W. N. (1883), 115: 31 W. R. 839. As to the effect of delivering the reply after the prescribed time, see *Graves* v. *Terry*, 9 Q. B. D. 170: 30 W. R. 748; *Gibbings* v. *Strong*, 26 Ch. D. 66: 32 W. R. 757.

(*s*) See R. S. C. Ord. XXVII. 15; and note (*a*), *supra*; *Williams* v. *Preston*, 20 Ch. D. 672: 30 W. R. 555, in which case C. A. allowed a new defence to be put in after judgment, and reheard the case, there having been fraud by the solicitor; *Gibbings* v. *Strong*, 26 Ch. D. 66: 32 W. R. 757.

2. (*Explain the circumstances under which judgment was allowed to go by default, and account for the delay (if any) in making the application. See paragraph 2 of* Form 434.)

3. The plaintiff's claim in this action is for (*Here state shortly the nature of the plaintiff's claim, and the facts upon which the applicant relies as affording a good defence thereto*).

4. I am advised and verily believe that I have a good defence to this action upon the merits.

5. (*Show means of knowledge.*)

632.

Notice of motion or summons to set aside judgment, and subsequent proceedings for irregularity. [Dan. Pr. 564.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant, that the judgment entered in this action on the —— day of ——, 188— (*If there have been any subsequent proceedings upon such judgment state them; as:* and the writ of —— issued on such judgment on the —— day of ——, 188—), may be set aside as irregular, on the ground that (*Here specify the irregularity*) (*t*); and that the defendant may be at liberty, on or before the —— day of ——, 188—,

If no appearance has been entered, say: to enter an appearance and

to deliver a statement of defence in this action; and that the plaintiff may be ordered to pay to the defendant his costs of this application.

633.

Affidavit in support. [Dan. Pr. 564.]

(*Same as* Form 436.)

(*t*) See R. S. C. Ord. LXX. 3.

CHAPTER XI.

DISCONTINUANCE AND WITHDRAWAL OF CLAIM OR DEFENCE.

(*Dan. Pr.*, pp. 565—569, ccclxx.)

(*a*) *Discontinuance, &c.—Short Summary of Material Provisions of R. S. C.* 1883.

	Order.
Discontinuance by plaintiff.—Plaintiff may, at any time before defence, or after defence before taking any other proceeding (save any interlocutory application), by notice in writing wholly discontinue his action, or withdraw any part of his alleged cause of complaint. He must pay the defendant's costs of the action, or so much thereof as is discontinued. Discontinuance or withdrawal is no defence to a subsequent action. Except as above provided a plaintiff cannot discontinue without special leave	XXVI. 1.
Withdrawal of defence.—The Court or a Judge may allow the whole or any part of the alleged grounds of defence or counterclaim to be withdrawn or struck out, but no defence can be withdrawn without such leave	,, ,,
Withdrawal by consent.—A cause entered for trial may be withdrawn upon production of the written consent of the parties	,, 2.
Entering judgment on discontinuance.—A defendant may enter judgment for costs on discontinuance, if not paid within *four days* after taxation	,, 3.
Staying action until costs paid.—Any subsequent action brought before payment of such costs may be stayed	,, 4.

634. Notice of discontinuance (*b*). [Dan. Pr. 565.]

Formal parts: see Form 37.

Take notice that the plaintiff hereby wholly discontinues this action [*or*, withdraws so much of his claim in this action as relates to ——].

If not against all the defendants, add: as against the defendant C. D.

635. Judgment for costs on discontinuance, or withdrawal of part of claim (*c*). [Dan. Pr. 567.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant.

—— day of ——, 188— (*Date of entering judgment*).

The plaintiff having by a notice in writing dated the —— day of

(*b*) See R. S. C. Ord. XXVI. 1; App. B., No. 19; and note (*a*), *supra*.
(*c*) See R. S. C. Ord. XXVI. 3; App. F., No. 14. For another form, see 2 Seton,

——, 188—, wholly discontinued this action [*or*, withdrawn his claim for —— ; *or*, withdrawn so much of his claim as relates to —— ; *or as may be*] : It is this day adjudged that the said defendant recover against the plaintiff costs to be taxed.

The above costs have been taxed and allowed at £——, as appears by a taxing officer's certificate dated the —— day of ——, 188—.

636.

Notice of motion or summons to stay subsequent action brought before payment of costs of discontinued action (*d*). [Dan. Pr. 569, cccIxx.]

(*See* Form 1962.)

637.

Notice of motion or summons for order that action be discontinued (*e*). [Dan. Pr. 567.]

Formal parts : see Form 38 *or* 43.

on the part of the plaintiff, that this action may be ordered to be wholly discontinued,

If as against less than all the defendants, add : as against the defendant C. D.,

with costs to be paid by the plaintiff.

638.

Notice of motion or summons to strike out part of claim (*f*). [Dan. Pr. 567.]

Formal parts : see Form 38 *or* 43.

on the part of the plaintiff, that his claim for —— [*or*, so much of his claim as relates to ——] may be struck out,

If as against less than all the defendants, add : as against the defendant C. D.,

with costs to be paid by the plaintiff.

639.

Petition of course to discontinue action, or to strike out part of claim. [Dan. Pr. 567.]

Formal parts : see Form 39.

The humble petition of the plaintiff.

Showeth as follows :

1. On the —— day of ——, 188—, your petitioner issued the writ of

1537, No. 1. As to cases on discontinuance, see Dan. Pr. 565, 566 ; Wilson, 286 ; 2 Seton, 1537, 1538 ; Ann. Pr. 284. On entering the judgment the notice of discontinuance and the Taxing Master's certificate must be produced. A fee of 10*s.* is payable on the judgment : by a stamp impressed thereon : see Ord. as to S. C. Fees, Sched. No. 58 ; Ord. as to Fees, &c., July, 1884, p. 9. As to taxation of costs on discontinuance, see *Harrison* v. *Leutner*, 16 Ch. D. 559.

(*d*) See R. S. C. Ord. XXVI. 4 ; and note (*a*), *supra*.

(*e*) See R. S. C. Ord. XXVI. 1. For form of order, see 2 Seton, 1537, No. 2.

(*f*) See R. S. C. Ord. XXVI. 1.

summons in this action out of the Central Office of the Supreme Court of Judicature.

2. On the —— day of ——, 188—, the defendant delivered a defence in this action, and on the —— day of ——, 188—, your petitioner delivered his reply thereto.

3. Your petitioner is now advised to discontinue this action [*or*, to withdraw his claim for —— ; *or*, to withdraw so much of his claim as relates to ——].

If as against less than all the defendants, add: as against the defendant C. D.

Your petitioner therefore humbly prays, that with the consent (*g*) of the defendant, this action [*or as may be: Continue as in* Form 637 *or* 638 *to the end*].

640.

Notice of motion or summons to discontinue action on special terms by consent.

[Dan. Pr. 567.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that by consent this action may be discontinued on the terms following, namely : (*State the terms*) ; and that all proper directions may be given for carrying the said terms into effect.

641.

Notice of motion or summons to withdraw or strike out defence or counterclaim, or part thereof (*h*).

[Dan. Pr. 568.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant C. D., that his defence [*or*, his counterclaim *or*, his defence and counterclaim] delivered in this action

Or, so much of his defence delivered in this action as sets up ——

Or, so much of his counterclaim delivered in this action as claims ——

may be withdrawn or struck out.

(*g*) For form of consent, see Form 42.

(*h*) See R. S. C. Ord. XXVI. r. 1. For form of order, see 2 Seton, 1537, No. 3 : see *Williams* v. *Preston*, 20 Ch. D. 672 : 30 W. R. 555 ; *Swindell* v. *Birmingham Syndicate*, W. N. (1884) 98 ; *Real and Personal Advance Co.* v. *McCarthy*, 14 Ch. D. 188.

CHAPTER XII.

APPLICATION FOR ORDER FOR INQUIRIES AND ACCOUNTS, AND FOR ISSUES WITHOUT PLEADINGS.

(*Dan. Pr.*, pp. 570, 571, ccclxx.)

Section I.—Inquiries and Accounts.

642.

Notice of motion or summons for inquiries or accounts (*a*). [Dan. Pr. 570.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that the following inquiries and accounts [*or as may be*] may be directed to be made and taken: that is to say (*Set out the inquiries and accounts in numbered paragraphs, as thus:*)

1. An inquiry whether, &c.

2. An account of, &c.

If it is desired that the inquiries and accounts should be made and taken before a referee (*b*), *add:* And that such inquiries and accounts may be directed to be made and taken before the Official Referee in rotation [*or as may be*].

If it is desired that the inquiries and accounts should be made and taken in a district registry (*c*), *add:* And that such inquiries and accounts may be directed to be made and taken by the Registrar of the district registry at (*State where*).

(*a*) The Court or a Judge may, at any stage of the proceedings in a cause or matter, direct any necessary inquiries or accounts to be made or taken, notwithstanding that it may appear that there is some special or further relief sought for, or some special issue to be tried, as to which it may be proper that the cause or matter should proceed in the ordinary manner: R. S. C. Ord. XXXIII. 2; see *Turquand* v. *Wilson*, 1 Ch. D. 85. An application under this rule may be made even after trial: see *Barber* v. *Mackrell*, 12 Ch. D. 524. As to this rule, see Wilson, 321; Ann. Pr. 349—351. A fee of 10*s.* is payable on the order: by a stamp impressed thereon: see Ord. as to S. C. Fees, 1884, Sched. No. 61; Ord. as to Fees, &c., July, 1884, p. 9. The inquiries and accounts will generally be made and taken by the Judge's chief clerk; but they may be ordered to be made and taken before a District Registrar: Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 66; or before an official or special referee: *Ibid.*, s. 57.

(*b*) See *Ibid.*, s. 57.

(*c*) *Ibid.*, s. 66; *Irlam* v. *Irlam*, 2 Ch. D. 608; *Re Smith, Hutchinson* v. *Ward*, 6 Ch. D. 692; *McDonald* v. *Foster*, 6 Ch. D. 193.

Section II.—Issues of Fact without Pleadings (*d*).

(*Dan. Pr.*, p. 571, ccclxx.)

(*d*) *Issues of Fact without Pleadings.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Trial of questions of fact agreed upon.—When the parties agree as to the questions of fact to be decided between them, they may, after writ and before judgment, by consent and order of the Court or a Judge, proceed to trial of any such questions of fact without formal pleadings. Such questions may be stated in an issue in the prescribed form: which may be entered for trial and tried in the same way as any issue joined in an ordinary action	XXXIV. 9.
Order for payment of a sum of money.—The Court or a Judge may by consent order that, upon the finding of such issue, a sum of money, fixed by the parties, or to be ascertained upon a question inserted in the issue for that purpose, shall be paid by one of the parties to the other, either with or without costs .	,, 10.
Entry of judgment upon the finding.—Upon the finding on such issue judgment may be entered for the sum so agreed or ascertained, with or without costs, and execution may issue forthwith, unless otherwise agreed, or unless otherwise ordered to enable either party to move to set aside the finding or for a new trial	,, 11.
Record of proceedings.—The proceedings upon such issue may be recorded at the instance of either party, and the judgment, whether recorded or not, will have the same effect as any other judgment in a contested action	,, 12.

643.

Notice of motion or summons for trial of an issue on a question of fact without pleadings (*e*). [Dan. Pr. 571, ccclxx.]

Formal parts: see Form 38 *or* 43.

on behalf of the plaintiff [*or*, defendant], that the parties do proceed to the trial of the questions of fact in dispute between them without any formal pleadings, in accordance with the terms embodied in the agreement between the parties, dated the —— day of ——, 188—; and that, except for the purposes of the order to be made on this application, all further proceedings in this action may be stayed until after the determination of such questions of fact, and that the costs of this application be costs in the action.

644.

Issue (*f*). [Dan. Pr. 571, ccclxx.]

(*Title and reference to the record.*)

Whereas A. B. affirms, and C. D. denies (*Here state the question or questions of fact to be tried*): and it has been ordered by the Honourable Mr. Justice —— that the said question shall be tried (*Here state mode of trial, whether with or without a jury*): Therefore let the same be tried accordingly.

(*e*) See R. S. C. Ord. XXXIV. 9; and note (*d*), *supra*. For forms of affidavit in support of the application, and of agreement, see Chitty's Forms, 686, 687.

(*f*) See R. S. C. Ord. XXXIV. 9; App. B., No. 15; Chitty's Forms, 688, 689.

CHAPTER XIII.

EVIDENCE (*a*).

(*Dan. Pr.*, pp. 572—662, cclxxi.—cclxxviii.)

SECTION I.—MATTERS TO BE PROVED.

(*Dan. Pr.*, pp. 572—586, cclxxi.)

(1.) *Admissions* (*b*).

645. Admissions by agreement (*c*). [Dan. Pr. 576.]

(A.) *By Agreement.*

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant,

Admissions on the part of the plaintiff and defendant.

(*a*) *Evidence.*—As to the *onus probandi*, see Dan. Pr. 577—580; Taylor, Part II., Chap. III., ss. 364—390; Best, 264—274; Gresley, 388; Starkie, 586; Powell, 287—297. As to presumption of law, see Dan. Pr. 578; 1 Phillips, 467, *et seq.*; 1 Taylor, ss. 97—213; Best, 292—300; Gresley, 473; Powell, 66—98. As to proof of facts not noticed in the pleadings, see Dan. Pr. 580; 1 Taylor, s. 298; R. S. C. Ord. XIX. 15, 22, 23. As to proving the substance of the case, see Dan. Pr. 582; 1 Taylor, ss. 221—253; Gresley, 239; Powell, 470—477. As to the effect of a variance, see Dan. Pr. 584, 585; as to variance generally, see 1 Phillips, 569, *et seq.*; 1 Taylor, ss. 254—297; Best, 277—279; Gresley, 242; Powell, 478—495. As to the best evidence, see Dan. Pr. 585, 586; 1 Phillips, Chap. IX.; 1 Taylor, ss. 391—397; Best, 80—91; Gresley, 247. As to hearsay, see 1 Phillips, Chap. VIII.; 1 Taylor, ss. 567—606; Best, 445—455; Hubback, 648—711; Gresley, 304—325; Powell, 137—150.

(*b*) *Admissions.*—As to admissions generally, see Dan. Pr. 572—577; 1 Taylor, Part II., Chap. XIV.; Best, ss. 525, *et seq.*; Gresley, Part I., Chaps. I., II.; Powell, Chap. XVI. Admissions are, (1) on the record; (2) between the parties.

(1.) *Admissions on the record:*—

(*a*) *Actual; i.e.*, either on the pleadings (R. S. C. Ord. XIX. 13), or in answers to interrogatories (R. S. C. Ord. XXXI. 24).

(*β*) *Implied*, from the pleadings (R. S. C. Ord. XIX. 13, 17, 19).

(2.) *Admissions between the parties:*—

(*γ*) By agreement.

(*δ*) By notice.

See 1 Seton, 29—32; Wilson, 319; Ann. Pr. 341—342.

(*c*) As to filing and marking admissions, see R. S. C. Ord. LXI. 15, 31; 1 Seton,

It is hereby agreed, on behalf of the plaintiff and defendant respectively, to make the following admissions; and that these admissions, and the documents mentioned or referred to therein, may be used and read in evidence upon the trial of this action and for all the purposes thereof; save and except all just causes of exception to the admissibility of the same as evidence; that is to say:—

1. That the several deeds specified in the first schedule hereto, and identified by our respective initials thereon, are the deeds of the like respective dates mentioned in the pleadings of this action; and that the said deeds were respectively executed as they respectively purport to have been.

2. That the several letters specified in the first part of the second schedule hereto, and identified by our respective initials thereon, were respectively duly signed as they purport to have been, and were received in due course by the respective persons to whom such letters respectively purport to be addressed, with the enclosures in such letters referred to, from the persons by whom such letters respectively purport to have been written.

3. That the paper writing marked A., identified by our respective signatures at the foot thereof, contains true copies of the several letters specified in the second part of the second schedule hereto; and that the originals of such letters respectively were duly signed as they purport to have been, and were received in due course (*Continue as paragraph* 2, *to the end*).

4. That the copies of letters contained in the said paper writing marked A., or any of them, may be read in evidence as primary and the best evidence, and not as secondary evidence, and shall have the same force as if they were the originals of such letters; and that the said original letters shall not be required to be produced, or any evidence required as to the same, or of the proper custody thereof, or as to the non-production thereof.

5. That A. B., in the statement of claim in this action named, died on the —— of ——, 186—, intestate, and without having been married.

6. That the defendant C. D. is the eldest son and heir-at-law of E. F., in the said statement of claim named.

7. That the defendant C. D. is the heir of the said E. F., according to the custom of the manor of W.

We also undertake to produce, for the purposes aforesaid, or any of them, on the trial of this action, and otherwise, as occasion may require, such of the documents specified in the schedules hereto as are in our possession respectively.

Dated this —— day of ——, 188—.

T. B., plaintiff's solicitor [*or*, agent].
J. F., defendant's solicitor [*or*, agent].

32. 36, Nos. 21, 22. Admissions between co-defendants, to which the plaintiff is not a party, cannot be entered as evidence as against the plaintiff: *Dodds* v. *Tuke*. 25 Ch. D. 617: 32 W. R. 424.

THE FIRST SCHEDULE ABOVE REFERRED TO.

Deeds.

Serial Number.	Dates.	Description.	Parties.
1	1854. January 1	Lease	A. B. one part, and C. D. other part.
2	1861. December 31	Conveyance . .	E. F. first part, G. H. second part, and J. L. third part.

THE SECOND SCHEDULE ABOVE REFERRED TO.

Letters.

Serial Number.	Dates.	By whom written.	To whom sent.
		First part.	
3	1884. April 1 . .	Defendant . . .	Plaintiff.
4	,, May 10 . .	J. F., defendant's solicitor . . .	T. B., plaintiff's solicitor.
		Second part.	
5	1884. April 12 . .	L. M.	N. O.
6	,, May 18 . .	P. R.	S. T.

646.

Another form of admissions, by agreement. [Dan. Pr. 576.]

(*Heading as in* Form 645.)

We, the undersigned solicitors for the plaintiff and defendants respectively, hereby agree to admit upon the trial of this action and for all the other purposes of this action, that such of the documents mentioned in the schedule hereto as are therein specified to be originals were respectively written, signed, or executed as they purport respectively to have been; that such of the said documents as are therein specified as copies are true copies; and that such of the said documents as are therein stated to have been served, sent, or delivered, were so served, sent, or delivered respectively: saving all just exceptions to the admissibility of all such documents as evidence in this action.

(*Dated and signed, as in* Form 645.)

The Schedule above referred to.

ORIGINALS.

Serial Number.	Description of the Documents.	Dates.
1	Deed of Covenant between A. B. & C. D., one part, and E. F., other part	1st January, 1848.
2	Indenture of Lease from A. B. to C. D.	1st February, 1848.
3	Indenture of Release between A. B. & C. D., 1st part, &c. . . .	2nd February, 1848.
4	Letter from defendant to plaintiff .	1st March, 1848.
5	Policy of Insurance on goods by ship *Isabella* on voyage from Oporto to London	3rd December, 1847.
6	Memorandum of agreement between C. D., captain of said ship, and E. F.	
7	Bill of Exchange for £100 at 3 months, drawn by A. B. on and accepted by C. D., indorsed by E. F. and G. H.	1st May, 1840.

COPIES.

Serial Number.	Description of Documents.	Dates.	Original or Duplicate served, sent, or delivered, when, how, and by whom.
8	Register of baptism of A. B., in the parish of X. .	1st January, 1848 .	
9	Letter from plaintiff to defendant	1st February, 1884.	Sent by General Post, 2nd February, 1884
10	Notice to produce papers. . . .	1st March, 1884. .	Served 2nd March, 1884, on defendant's solicitor by E. F., of —.
11	Record of a judgment of the Court of Queen's Bench in an action *F. S.* v. *F. N.* . . .	Trinity Term, 10th Victoria.	
12	Letters Patent of King Charles Second, in the Public Record Office. . . .	1st January, 1680 .	

(B.) *By Notice* (*d*).

(*d*) *Admissions by Notice.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Notice of admission of facts.—Any party may give notice, by his pleading, or otherwise in writing, that he admits the case of the other party.	XXXII. 1.
Notice to admit documents.—Either party may give to the other notice, in the prescribed form (App. B. No. 11), to admit documents; in case of refusal the costs of proof will in general be borne by the party refusing; no costs of proof will be allowed, unless such notice is given, except where the taxing officer considers the omission a saving of expense	,, 2, 3.
Notice to admit facts.—Written notice to admit facts, in the prescribed form (App. B. No. 12), may be given by any party, at any time not later than *nine days* before the day for which notice of trial has been given. The costs of proving such facts will be borne by the party neglecting or refusing to admit within *six days* after service of the notice, unless the Court or a Judge certify that the refusal was reasonable. Any admission under this rule will be deemed to be made only for the purposes of the particular matter in which it is made; leave may be given to amend or withdraw the admission	,, 4, 5.
Proof of signature of admissions.—An affidavit of the solicitor or his clerk, of the signature of any admissions made pursuant to notice, will be sufficient evidence of such admissions . .	,, 7.
Costs of unnecessary notice.—If a notice to admit comprises unnecessary documents, the costs occasioned thereby must be borne by the party giving it	,, 9.

647.

Notice admitting facts stated or referred to in pleading of opposite party (*e*). [Dan. Pr. 576.]

Formal parts: see Form 37.

Take notice that the defendant C. D. [*or as may be*] hereby admits the truth of the whole of the case stated in the plaintiff's statement of claim [*or as may be*] in this action,—*or, if part only admitted, specify the matter admitted; as thus:* the truth of the circumstances under which the deed dated the —— day of ——, 188—, mentioned in the —— paragraph of the statement of claim [*or as may be*] in this action was executed as set forth therein.

648.

Another form of notice (*e*). [Dan. Pr. 576.]

Formal parts: see Form 37.

Take notice that the defendant C. D. [*or as may be*] hereby admits the truth of the following facts stated or referred to in the plaintiff's statement of claim [*or as may be*], in this action; that is to say:—

1.
2.
3. } (*Specify distinctly and concisely the facts admitted.*)

(*e*) See R. S. C. Ord. XXXII. 1; and note (*d*), *supra*. As to proof of documents or copies by admission, see 1 Seton, 32.

649.
Notice to admit facts (*f*). [Dan. Pr. 577, cccLxxi.]

(*Heading as in* Form 645.)

Take notice that the plaintiff [*or*, defendant] in this cause requires the defendant [*or*, plaintiff] to admit, for the purposes of this cause only, the several facts respectively hereunder specified; and the defendant [*or*, plaintiff] is hereby required, within six days from the service of this notice, to admit the said several facts, saving all just exceptions to the admissibility of such facts as evidence in this cause.

Dated —— day of ——, 188—.

G. D., solicitor [*or*, agent] for the plaintiff [*or*, defendant].

To E. F., solicitor [*or*, agent] for the defendant [*or*, plaintiff].

The facts, the admission of which is required, are—

1. That John Smith died on the 1st of January, 1870.
2. That he died intestate.
3. That James Smith was his only lawful son.
4. That Julius Smith died on the 1st of April, 1876.
5. That Julius Smith never was married.

650.
Admission of facts, pursuant to notice (*g*). [Dan. Pr. 577, cccLxxi.]

(*Heading as in* Form 645.)

The defendant [*or*, plaintiff] in this cause, for the purposes of this cause only, hereby admits the several facts respectively hereunder specified, subject to the qualifications or limitations, if any, hereunder specified, saving all just exceptions to the admissibility of such facts, or any of them, as evidence in this cause.

Provided that this admission is made for the purposes of this action only, and is not an admission to be used against the defendant [*or*, plaintiff] on any other occasion, or by anyone other than the plaintiff [*or*, defendant—*or party requiring the admission*].

Delivered —— day of ——, 188—.

E. F., solicitor [*or*, agent] for the defendant [*or*, plaintiff].

To G. H., solicitor [*or*, agent] for the plaintiff [*or*, defendant].

Facts admitted.	Qualifications or Limitations, if any, subject to which they are admitted.
1. That John Smith died on the 1st of January, 1870.	1.
2. That he died intestate.	2.
3. That James Smith was his lawful son.	3. But not that he was his only lawful son.
4. That Julius Smith died.	4. But not that he died on the 1st of April, 1876.
5. That Julius Smith never was married.	5.

(*f*) See R. S. C. Ord. XXXII. 4, 5, App. B., No. 12; and note (*d*), *supra*. This notice cannot be set aside: *Crawford* v. *Chorley*, W. N. (1883), 198.

(*g*) See R. S. C., App. B., No. 13.

651.

Notice to admit documents (*h*). [Dan. Pr. 576, 606.]

(*Heading as in* Form 645.)

Take notice that the plaintiff [*or*, defendant—*or*, petitioner—*or*, respondent—*or as may be*] in this cause proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the defendant [*or*, plaintiff—*or*, respondent—*or*, petitioner—*or as may be*], his solicitor or agent, at (*State where; as thus:* our office, situate, No. 10, New Square, Lincoln's Inn, Middlesex), on (*State when; as thus:* Monday, the 10th March, 1884), between the hours of (*State what; as thus:* eleven o'clock in the forenoon, and four o'clock in the afternoon); and the defendant [*or*, plaintiff—*or*, respondent—*or*, petitioner—*or as may be*] is hereby required, within forty-eight hours from the last-mentioned hour, to admit that such of the said documents as are specified to be originals were respectively written, signed, or executed as they purport respectively to have been; that such as are specified as copies are true copies; and such documents as are stated to have been served, sent, or delivered, were so served, sent, or delivered respectively; saving all just exceptions to the admissibility of all such documents as evidence in this cause.

Dated this —— day of ——, 188—.

G. H., solicitor [*or*, agent] for the plaintiff [*or*, defendant—*or*, petitioner—*or*, respondent—*or as may be*].

To Mr. E. F., solicitor [*or*, agent] for the plaintiff [*or*, defendant—*or*, respondent—*or*, plaintiff—*or as may be*].

(*Here describe the documents, the manner of doing which may be by Schedule; as in* Form 646.)

652.

Summons to extend time for making admission (*i*). [Dan. Pr. 606.]

Formal parts: see Form 43.

on the part of the defendant [*or as may be*], that the time limited by the notice to admit documents served in this action by the plaintiff [*or as may be*] on the —— day of ——, 188—, for the applicant to inspect and admit the documents specified in the said notice [*or*, that the time limited by the Rules of the Supreme Court to admit the facts specified in the notice served in this action by the plaintiff—*or as may be*], may be (further) enlarged to the —— day of ——, 188—; and that the costs of this application may be costs in the action.

653.

Admission of documents. [Dan. Pr. 606.]

I hereby make the admission required to be made by the within notice

If some only of the documents are admitted, qualify the admission; as thus: so far as relates to the documents distinguished therein by

(*h*) See R. S. C. Ord. XXXII. 2, 3, App. B., No. 11; and note (*d*), *supra*.

(*i*) As to the time for admitting facts under the notice, see R. S. C. Ord. XXXII. 4; note (*d*), *supra*.

the numbers 1, 2, 3, &c. ; and I decline to make any other of the admissions required by the said notice.

Dated this —— day of ——, 188—.

E. F., solicitor [*or*, agent] for the defendant [*or as may be*].

654.

Affidavit of due signature of admissions (*j*).

[Dan. Pr. 606.]

Formal parts: see Form 6.

I, X. Y., of —— [clerk to Mr. G. H., of ——], the solicitor in this action for the above-named plaintiff [*or as may be*], make oath, and say as follows :

1. On the —— day of ——, 188—, I was present and did see Mr. E. F., the solicitor in this action [*or*, matter] for the above-named defendant [*or as may be*], sign the admission hereunto annexed marked A. (*k*) ; and the signature "E. F.," subscribed to the said admission, is of the proper handwriting of the said Mr. E. F.

655.

Affidavit of service of notice, and of refusal to admit.

[Dan. Pr. 606.]

Formal parts: see Form 6.

1. On the —— day of ——, 188—, I served Mr. E. F., the solicitor in this action for the defendant [*or as may be*], with the notice in writing dated the —— day of ——, 188—, now produced and shown to me, and marked A. (*l*), and addressed to (*State whom*), and purporting to be a notice to admit documents [*or*, facts] in this action [*or*, matter], by delivering a true copy of the said notice to, and leaving the same with,

If served personally, say: the said Mr. E. F., personally, at ——.

If not served personally, say: the clerk [*or*, servant—*or as may be*] of the said E. F., at his address for service, situate at (*State where*).

2. The said E. F. inspected the documents specified in the said notice, at the time and place mentioned in such notice.

Or, The said D. F. has inspected the documents specified in the said notice since the aforesaid service thereof.

Or, The said E. F. has not, nor has the said defendant [*or as may be*], nor any other person on his behalf, inspected the documents specified in the said notice, or any of them, since the aforesaid service of the said notice.

3. The said defendant [*or as may be*], and his solicitor [*or*, agent] in this action [*or*, matter], have refused or neglected to admit the said documents, or any of them [*or*, to admit the facts specified in the said notice, or any of them], as required by the said notice ; and no admission of the said documents [*or*, facts], or any of them, hath in fact been made by the said defendant, or by any person on his behalf [*or as may be*].

4. (*Show means of knowledge.*)

(*j*) See R. S. C. Ord. XXXII. 7 ; note (*d*), *supra*.

(*k*) For form of memorandum of exhibit, see Form 28.

(*l*) *Ibid.*

656. Notice of motion or summons for leave to supply defect in evidence. [Dan. Pr. 583, and note (*k*).]

(2.) *Supplying Defect in Evidence.*

Formal parts: see Form 38 *or* 43.

on behalf of the plaintiff [*or as may be*], that he may be at liberty to file evidence for the purpose of proving (*State the fact to be proved: as thus:* the due execution of the indenture of settlement dated the —— day of ——, 188—, in the pleadings in this action mentioned), notwithstanding that the time for filing evidence has expired; and that the trial of the action may be postponed until the —— day of ——, 188— (*Name a time sufficient to allow the evidence to be procured*).

Section II.—Documentary Evidence.

(*Dan. Pr.*, pp. 586—611, ccclxxi.—ccclxxiii.)

(1.) *Documentary Evidence which proves itself* (*a*).

(*a*) *Documentary evidence.*—See 1 Seton, 23—26. As to the proof of:—Acts and journals of Parliament, and proclamations, see Dan. Pr. 586; 8 & 9 Vict. c. 113, s. 3; 13 & 14 Vict. c. 21, s. 7; 2 Taylor on Evid. ss. 1527—1529; 2 Phill. on Evid. 135, 194; Private Acts of Parliament, Dan. Pr. 587, note (*b*); 2 Taylor, s. 1523; Hubback, 613.—Records of Courts of Justice: Dan. Pr. 587; 2 Phill. on Evid. 197; 2 Taylor, s. 1534; R. S. C. Ord. LXI. 6, 7.—British proclamations, orders and regulations: 31 & 32 Vict. c. 37 (Documentary Evidence Act, 1868); and see 33 & 34 Vict. c. 14, s. 12 (5); *Ibid.*, c. 75, s. 83; *Ibid.*, c. 79, s. 21; 36 & 37 Vict. c. 71, s. 64; 38 & 39 Vict. c. 22, s. 9; 40 & 41 Vict. c. 21, s. 51.—British treaties, charters, letters patent, grants from the Crown, pardons, and commissions: 2 Taylor, s. 1526.—General records of the realm in the custody of the Master of the Rolls: 1 & 2 Vict. c. 94, ss. 12, 13; 2 Taylor, s. 1533.—Foreign and Colonial Acts of State, judgments, &c.: Dan. Pr. 589; 14 & 15 Vict. c. 99, s. 7; 2 Taylor, s. 1556.—Foreign law: Dan. Pr. 589; 2 Taylor, ss. 1423—1425; 22 & 23 Vict. c. 63; 24 & 25 Vict. c. 11.—Registers and certificates of registry of British vessels: 14 & 15 Vict. c. 99, s. 12; 17 & 18 Vict. c. 104, s. 107; Dan. Pr. 590; 2 Taylor, s. 1623.—Scotch bankruptcy proceedings: 19 & 20 Vict. c. 79, ss. 47, 73, 140, 147, 174; 2 Taylor, s. 1559. As to when certified copies or extracts from books or other documents of a public nature are admissible in evidence, see Dan. Pr. 590; 14 & 15 Vict. c. 99, s. 14; and see 8 & 9 Vict. c. 113, s. 1; and as to obtaining copies or extracts from such documents, see 14 & 15 Vict. c. 99, s. 14; Dan. Pr. 590, note (*w*). For a list of public books and documents, the contents of which are now provable, either by examined or by certified copies, under 14 & 15 Vict. c. 99, s. 14, see 2 Taylor, s. 1600. For a list of the principal public registers and documents, certified copies of which are receivable in evidence, by virtue of some enactment having special reference to them, see 2 Taylor, ss. 1602—1609. As to the statutable methods of proof of records or other proceedings of particular tribunals, or of public records and documents, see 2 Taylor, ss. 1547, 1580. As to the proof of certificates, under statutes having special reference to them, see 2 Taylor, ss. 1610—1659: and see 33 & 34 Vict. c. 14, s. 12. As to documents purporting to be sealed with the official seal of the Treasury Solicitor, see Dan. Pr. 591; 39 & 40 Vict. c. 18, s. 1. As to documents relating to Industrial and Provident Societies: Dan. Pr. 591; 39 & 40 Vict. c. 45, s. 24. As to documents deposited under the Life Assurance Companies Act, 1871: Dan. Pr. 592; 33 & 34 Vict. c. 61, s. 17. As to documents filed with

(A.) *Certified Copies of public Documents.*

657.

Certificate verifying extract from a parish register (*b*).

[Dan. Pr. 590.]

I, A. B., the rector [*or*, vicar—*or*, curate] of the parish [*or*, chapelry] of ——, in the county of ——, do hereby certify, that the foregoing is a true copy of an entry in the register book of baptisms [*or*, marriages—*or*, burials] kept for the said parish [*or*, chapelry] for the year 188—.

Dated this —— day of ——, 188—.

A. B.

658.

Certificate under 14 & 15 Vict. c. 99, s. 14.

[Dan. Pr. 590.]

Pursuant to the statute 14 & 15 Vict. chapter 99, I hereby certify the above to be a true copy of [*or*, a true extract from] the original book [*or*, *other document*] in my custody; and that I am the officer to whose custody the said original is entrusted.

X. Y.,
One of the Masters of the Supreme Court of Judicature.

(B.) *Using Evidence and other Proceedings taken in another Action.*

659.

Notice of intention to read at the hearing evidence taken in another action (*c*).

[Dan. Pr. 596, cccLxxii.]

Formal parts: see Form 37.

Take notice that the plaintiff [*or*, defendant] in this action intends at the trial thereof to read and make use of the following documents; amely (*Describe the documents*; *as thus:* the affidavit of C. D., filed

the Registrar of Joint Stock Companies: Dan. Pr. 592; 40 & 41 Vict. c. 26. As to bankers' books: Dan. Pr. 593; 42 & 43 Vict. c. 11. As to judicial notice of signature of Judges of the Supreme Court and of the seals of the Central Office, and of the District Registries: Dan. Pr. 593; 8 & 9 Vict. c. 113, s. 2; 36 & 37 Vict. c. 66, s. 61; 1 Taylor, ss. 6, 14; R. S. C. Ord. LXI. 6, 7; *Ibid.*, XXXVII. 4. As to proof of documents thirty years old, see Dan. Pr. 601; 2 Phill. on Evid. 245; 1 Taylor, s. 87; and see 37 & 38 Vict. c. 78, s. 2.

(*b*) *Extracts from registers, &c.*—As to the admissibility in evidence of certified extracts from parish registers, see 14 & 15 Vict. c. 99, s. 14; of copies of entries under the General Registry Acts, 6 & 7 Will. IV. c. 86, s. 37; 37 & 38 Vict. c. 88, s. 38: Dan. Pr. 591; 1 Seton, 25; and see *Re Wintle*, L. R. 9 Eq. 373; *Riseley* v. *Sheppard*, W. N. (1873) 150; 21 W. R. 782; of certified extracts from non-parochial registers deposited with the Registrar-General, under 3 & 4 Vict. c. 92, ss. 9—15: 2 Phill. on Evid. 145; 2 Taylor, s. 1503. And as to extracts from the district registries: Dan. Pr. 591, note (*y*). As to the registries of burials in cemeteries, see 10 & 11 Vict. c. 65, ss. 32, 33; 27 & 28 Vict. c. 97; Dan. Pr. 590, note (*x*); Hubback, 505; and as to the penny stamp duty on certificates of birth, &c., see 33 & 34 Vict. c. 97, ss. 3, 80, and Sched.; Dan. Pr. 590, note (*x*).

(*c*) By R. S. C. Ord. XXXVII. 3, an order to read evidence taken in another cause or matter is no longer necessary, but such evidence may, saving all just exceptions, be read on *ex parte* applications by leave to be obtained at the time of making the application, and in any other case upon the party desiring to use such evidence giving *two days'* notice to the other parties of his intention to read such evidence. As to the admissibility in evidence of depositions of witnesses in other Courts, see Dan. Pr. 594; of proceedings in the High Court: *Ibid.*, 595; of judgments, orders, and proceedings in another suit: *Ibid.*, 595—601; *Llanover* v. *Homfray*, 19 Ch. D. 224: 30 W. R. 557: see also 2 Phill. on Evid. 210, 211; 2 Taylor, ss. 1576, 1577. As to admissibility in evidence of office copies of proceedings, see R. S. C. Ord. XXXVII. 4; *Ibid.*, LXI. 7.

the —— day of ——, 188—, and the deposition of E. F., filed the —— day of ——, 188—, in a certain action in this Court of A. *v.* W. (188—. A. No. 50), or office copies thereof; saving all just exceptions.

660.

Another form of such notice (*d*).
[Dan. Pr. 596, ccclxxii.]

Formal parts: see Form 37.

Take notice that the plaintiff [*or*, defendant] in this action intends at the trial thereof to read and make use of the documents specified in the schedule hereunder written, filed in an action in this Court of A. *v.* W. (188—. A. No. ——), or office copies thereof; saving all just exceptions.

The Schedule above referred to.

Description of documents.	Date of filing.
Affidavit of Wm. Jones	20th June, 1882.
Deposition of John Johnson	26th May, 1883.
Chief Clerk's certificate	19th July, 1883.

&c. &c. &c.

(C.) *Obtaining Production of an original Record of the Court.*

661.

Motion paper for order for production of an original record (*e*).
[Dan. Pr. 600.]

Formal parts: see Form 36.

To move on behalf of plaintiff [*or as may be*], that the proper officer may be directed to attend at (*State where, when, and on what proceeding; as thus:*

the assizes for the county of ——, to be holden at —— in the said county, on —— day the —— of ——, 188—, at —— o'clock in the forenoon, and so from day to day until the action of "*Jones* v. *Davies*" shall have been tried),

and produce the following documents, that is to say: (*Here describe the documents; as thus:* the original record of the proceedings in this action, and the original depositions of C. D. and E. F., filed herein on the —— day of ——, 188—).

(*d*) This form may be used when the documents are numerous.

(*e*) See R. S. C. Ord. LXI. 28. The application should be entitled in the action, the record whereof it is sought to have produced. As a rule no order will be made for production of the original record where certified or examined copies will serve the purpose: *A.-G.* v. *Ray*, 6 Beav. 335. As to admissibility in evidence of office copies of proceedings, see R. S. C. Ord. XXXVII. 4; *Ibid.*, LXI. 7.

(*Short title and reference to the record.*)

For attendance with (*Describe the documents, as in the order*) at (*State where, as in the order*).

Dated —— day of ——, 188—.

(*Name and address of solicitor or party bespeaking the attendance.*)

662. Memorandum bespeaking attendance of officer with documents (*f*). [Dan. Pr. 600.]

(D.) *Obtaining Production of Documents deposited in Court under an Order.*

(*See* Forms 1860 *to* 1867.)

(2.) *Documentary Evidence which does not prove itself* (*g*).

(A.) *Notices under* 20 & 21 *Vict. c.* 77, *s.* 64.

663. Notice of intention to adduce in evidence a probate, &c., as proof of a testamentary disposition of real estate (*i*). [Dan. Pr. 603.]

Formal parts : see Form 37.

Take notice that the plaintiff [*or as may be*] intends, at the trial of this action (*or other proceeding : to be here described*), to give in evidence, as proof of the devise or testamentary disposition in his favour of the estate called Whiteacre, in the plaintiff's statement of claim in this action mentioned [*or as may be*], by the will of C. D., in the said statement of claim named, the probate of the said will,

Or, letters of administration with the said will annexed,

Or, a copy (*h*), stamped with the seal of the Probate Division of the High Court of Justice, of the Probate, &c.,

granted by the Principal Registry [*or*, District Registry at ——], of the Probate Division of the High Court of Justice on the —— day of ——, 188—, to the said plaintiff [*or as may be*].

664. Notice of intention to dispute the validity of such disposition (*i*). [Dan. Pr. 604.]

Formal parts : see Form 37.

Take notice that the defendant A. B. [*or as may be*] intends at the trial of this action (*or other proceeding : to be here described,*) to dispute the validity of the devise or testamentary disposition in favour of the plaintiff [*or as may be*] of the estate called Whiteacre, in the plaintiff's statement of claim in this action mentioned, by the will of C. D., in the

(*f*) A fee of 1*l.* is payable (by a stamp impressed on or adhesive to the memorandum) on an application with or without a subpœna for any officer to attend as a witness, or to produce records or documents to be given in evidence (in addition to the reasonable expenses of the officer) for each day or part of a day he is necessarily absent from his office ; and a deposit may be required on account of further fees, and an undertaking to pay any further sum which may become payable beyond the amounts paid and deposited : see Ord. as to S. C. Fees, 1884, Sched. No. 25 ; Ord. as to Fees, &c., July, 1884, p. 5.

(*g*) See generally, Dan. Pr. 602—607 ; 2 Phill. on Evid. 242, *et seq.* ; 2 Taylor, ss. 1755—1885 ; Best, 306, 307 ; Gresley, 173, *et seq.*

(*h*) As to copies of wills and probates, see Dan. Pr. 603, note (*h*).

(*i*) See 20 & 21 Vict. c. 77, s. 64.

statement of claim named [*or as may be*], and referred to in your notice dated the —— day of ——, 188—, in this action, directed to me [*or as may be*].

(B.) *Notice to produce Documents.*

665.
Notice to produce documents (*j*). [Dan. Pr. 604, cccIxxii.]

(*Heading as in* Form 645.)

Take notice, that you are hereby required to produce and show to (*State whom; as thus:*

the Court; *or*,

the Court and jury; *or*,

J. A., Esq., one of the Official Referees of the Supreme Court; *or*,

A. B., Esq., a Referee specially appointed in this action;)

on the trial of this action [*or as may be*], all books, papers, letters, copies of letters, and other writings and documents in your custody, possession, or power, containing any entry, memorandum, or minute relating to the matters in question in this action [*or as may be*], and particularly (*Here describe the documents with sufficient particularity to inform the opposite party what documents he is required to produce*) (*k*).

Dated the —— day of ——, 188—.

(Signed) G. H., of ——,
Agent for M. N., of ——,
Solicitor for the above-named defendant [*or*, plaintiff].

To the above-named plaintiff [*or*, defendant], his solicitor or agent.

666.
Affidavit of service thereof (*l*).

(*Same as paragraph* 1 *of* Form 655, *substituting* produce *for* admit.)

(C.) *Proving Documents by Affidavit* (*m*).

667.
Affidavit of execution of a deed. [Dan. Pr. 605.]

Formal parts: see Form 6.

1. I saw (*Describe the party; as thus:*) the plaintiff A. B. [*or*, the defendant C. D. *or*, E. F., the testator in the pleadings of this action named—*or as may be*] sign, seal, and as his act and deed deliver, the

(*j*) See R. S. C. Ord. XXXII. 8; App. B., No. 14. If a notice to produce comprises unnecessary documents, the costs occasioned thereby must be borne by the party giving such notice: R. S. C. Ord. XXXII. 9.

(*k*) If the documents are numerous it may be found convenient to set them out in a schedule to the notice.

(*l*) See R. S. C. Ord. XXXII. 8.

(*m*) As to when proof, by the attesting witness, of the execution of a deed is necessary, see Dan. Pr. 605. As to the manner in which written documents are proved, see 2 Taylor, ss. 1786—1885.

indenture [*or*, deed poll] dated the —— day of ——, 188—, and marked —— (*o*), now produced and shown to me, and purporting to be (*Describe, shortly, what; as thus:* a settlement on the intended marriage of the said plaintiff).

2. The signature "——," set and subscribed to the said indenture [*or*, deed poll], as the party [*or*, one of the parties] executing the same, is of the proper handwriting of the said plaintiff [*or as may be*].

3. The signature "——," set and subscribed to the attestation indorsed on the said indenture [*or*, deed poll], of the execution thereof by the said plaintiff [*or as may be*], is of my proper handwriting.

668.

Affidavit proving handwriting of documents. [Dan. Pr. 605.]

Formal parts: see Form 6.

1. I am well acquainted with the handwriting of the plaintiff A. B. [*or as may be*]: having seen him write.

2. The (sixteen) several letters marked respectively E. F. 1, E. F. 2, &c. (*o*), now produced and shown to me, and dated respectively the ——, 188—, &c., are of the proper handwriting of the said A. B., and are respectively signed by him [*or as may be*].

3. The signature "——" to the agreement dated the ——, 188—, marked E. F. 17 (*o*), now produced and shown to me, is also of the proper handwriting of the said A. B.

669.

Affidavit verifying copy of correspondence and loss of a document. [Dan. Pr. 604.]

Formal parts: see Form 6.

1. The document marked E. F. 1, now produced and shown to me (*o*), is a copy of a correspondence (*Describe it; as thus:* between me and Messrs. A. B. & Co., the plaintiff's solicitors in this action), having reference to the subject-matter of this action: omitting signatures and other formal parts of such correspondence.

2. On or about the —— of ——, 188—, I received a letter from the defendant A. B. I have lately made diligent search for the said letter, but I have been unable to find it, and I do not know what has become thereof.

3. The paper writing marked E. F. 2, now produced and shown to me (*o*), is a true copy of the said letter, as I know from (*Show means of knowledge*).

670.

Affidavit of shorthand writer verifying transcript of his notes.

Formal parts: see Form 6.

1. In pursuance of instructions received by me from Messrs. A. & B., of ——, the solicitors in this action for the plaintiff [*or as may be*], I attended, on the —— of ——, 188—, at the chambers of G. M., Esq., one of the examiners of this Court, situate at No. ——, New Square, Lincoln's Inn [*or as may be*], and I then and there took shorthand

(*o*) For form of memorandum of exhibit, see Form 28, and note (*ss*) thereto.

notes of (*State what; as thus:* the cross-examination of the defendant S. T., on his affidavit filed in this action the —— day of ——, 188—).

2. The paper writing marked A., now produced and shown to me (*p*,) is a transcript of my said notes; and is a true and correct statement of the proceedings before the said examiner on the said cross-examination [*or as may be*].

(3.) *Proving Exhibits at the hearing or trial under an Order.*

671.

Motion paper for leave to prove exhibits at the trial or hearing (*q*). [Dan. Pr. 610.]

Formal parts: see Form 36.

To move on behalf of the plaintiff [*or as may be*], for leave, at the trial of this action [*or as may be*], to prove by affidavit or *viva voce* the (*Describe what; as thus:*

execution of the deeds specified in the first part of the annexed schedule; and the handwriting of the letters specified in the second part thereof):

saving all just exceptions.

The Schedule.

First part. } (*Describe the documents: as in*
Second part. } Form 645.)

672.

Petition of course for the like. [Dan. Pr. 610.]

Formal parts: see Form 39.

The humble petition of the plaintiff [*or as may be*].

Showeth as follows:

1. (*Describe the state of the action; as thus:* Issue has been joined in this action, and notice of trial has been given for the —— day of ——, 188—.

2. Your petitioner is advised to prove by affidavit, or *viva voce*, at the trial of this action [*or as may be*], the documents specified in the schedule hereto.

Your petitioner therefore humbly prays, that he may be at liberty, at the trial of this action [*or as may be*], to read an affidavit or affidavits, or to examine a witness or witnesses *viva voce*, to prove the documents hereinafter mentioned, that is to say: (*State what; as thus:*

the execution of the deeds specified in the first part of the said schedule; and the handwriting of the letters specified in the second part thereof):

saving all just exceptions.

The Schedule.

First part. } (*Describe the documents: as in*
Second part. } Form 645.)

(*p*) For form of memorandum of exhibit, see Form 28, and note (*ss*) thereto.

(*q*) The order should be entered as read in the judgment: see 1 Seton, 23, 36, No. 23. As to what documents can be thus proved, see Dan. Pr. 608—610.

(*See* Forms 772 *to* 786.)

673. Oath or affirmation of a witness called merely to prove a deed or document. [Dan. Pr. 610.]

674. Questions put to such witness. [Dan. Pr. 610.]

1. *Where the person called is the attesting witness:*
Is that your name and handwriting?
Is that the handwriting of C. D.?
Did you see him sign and seal and deliver this deed, as his act and deed?
Or, Did you see him sign this document?

2. *Where the person called is not the attesting witness:*
Are you acquainted with the handwriting of C. D., of, *&c.*?
Is that the handwriting of C. D.?

675. Indorsement, by the Registrar on deed or document exhibited (*r*). [Dan. Pr. 610, note (*r*).]

(*Short title and reference to the record.*)
This deed [*or*, document] was produced at the trial of this action [*or as may be*], and its execution by [*or*, the handwriting of] C. D. proved by A. B.

E. F., Registrar.

676. Motion paper for leave to issue a *subpœna* for the attendance in Court of a witness (*s*). [Dan. Pr. 611.]

Formal parts: see Form 36.
To move on behalf of the plaintiffs [*or as may be*], that a *subpœna* may issue for the attendance in Court of A. B. at the trial of this action [*or as may be*].

677. Direction to issue the *subpœna*. [Dan. Pr. 611.]

(*Short title and reference to the record.*)
Let a *subpœna* issue for the attendance in Court of A. B.

G. L., Registrar.

(*r*) See 1 Seton, 37, No. 30.

(*s*) No formal order is required to be drawn up. A note signed by the Registrar of the direction of the Court is sufficient: Dan. Pr. 611, note (*u*). As to issuing the *subpœna*, see Forms 733 to 736*a*.

Section III.—Testimony of Witnesses (*a*).—Evidence by Affidavit (*b*).

(*Dan. Pr.*, pp. 612—638, cccLxxiii.—cccLxxvi.)

(1.) *Affidavits generally* (*b*).

See the following forms :— No. of Form.

Formal parts of an affidavit . . . . . 6 to 8.
Forms of oaths and jurats, affirmations and affirmats . . . 9 to 26.
Memorandum of identity of exhibit . . . . . 28.
Notice of filing an affidavit . . . . . 29.
Notice of intention to read an affidavit, &c., already filed . . 30.

678.

Notice of motion or summons to take affidavit off the file for scandal (*c*). [Dan. Pr. 626, cccLxxv.]

Formal parts : see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that the affidavit of X. Y., filed the —— day of ——, 188—, may be taken off the file of this Court as being scandalous and irrelevant. And that the defendant C. D. [*or as may be*], on whose behalf the said affidavit was filed, may be ordered to pay the costs of and occasioned by the said affidavit, and the costs of this application : such costs to be taxed as between solicitor and client (*d*).

679.

Notice of motion or summons to strike out scandalous matter (*e*). [Dan. Pr. 626, cccLxxv.]

Formal parts : see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that the paragraphs numbered

(*a*) *Evidence of witnesses for use at hearing or trial of an action.*—Such evidence may be taken in the methods following : viz. (1) *viva voce* in open Court : R. S. C. Ord. XXXVII. 1 ; (2) by affidavit, upon agreement between the parties, or by order : *Ibid.*, and Ord. XXXVIII. 25—30 ; (3) by commission, or on letter of request : Ord. XXXVII. 1, 5—20 ; R. S. C. Oct. 1884, 6 ; (4) before an examiner : Ord. XXXVII. 1, 5—20, 39—44, 46, 49 ; R. S. C. 4th Feb. 1884 ; R. S. C. Oct. 1884, 7—10.

Evidence subsequent to hearing or trial.—Is to be taken as nearly as may be in the same manner as evidence taken at or with a view to a trial : R. S. C. Ord. XXXVII. 21, 22.

Evidence on interlocutory applications.—Upon motion, petition, or summons evidence may be given by affidavit, but a deponent may be ordered to attend for cross-examination : R. S. C. Ord. XXXVIII. 1.

(*b*) As to affidavits generally, see Chapter I., Sect. II., and notes thereto ; Dan. Pr. 620—638 ; 1 Seton, 27—29.

(*c*) See R. S. C. Ord. XXXVIII. 11. As to what is scandalous matter, see Dan. Pr. 386—8. As to the power of the Court to order an oppressive affidavit to be taken off the file, see *Walker* v. *Poole*, 21 Ch. D. 835 ; *Hill* v. *Hart-Davis*, 26 Ch. D. 470.

(*d*) See R. S. C. Ord. XXXVIII. 11.

(*e*) *Ibid.* ; *Warner* v. *Mosses*, W. N. (1881), 69. For form of order to expunge scandalous matter, see 2 Seton, 1633, No. 6. The provisions of Cons. Ord. XXXV. 60 (as to which see Dan. Pr. 626) have not been revived by R. S. C. 1883. It is apprehended, therefore, that in the case of an affidavit containing scandalous matter, filed for use in Chambers, a summons in the form in the text is the proper mode of application.

—— in the affidavit of X. Y. [*or*, that the passage commencing with the words "——" in the —— line and ending with the words "——" in the —— line of the —— paragraph of the affidavit of X. Y.], filed on the —— day of ——, 188—, may be struck out as scandalous and irrelevant. And that the defendant C. D. [*or as may be*], on whose behalf the said affidavit was filed, may be ordered to pay the costs of and occasioned by such scandalous and irrelevant matter, and also the costs of this application: such costs to be taxed as between solicitor and client.

(2.) *Trial on Affidavit* (*f*).

(*f*) *Trial on Affidavit.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Time for filing affidavits.—Plaintiff must file his affidavits and deliver a list thereof to defendant or his solicitor within *fourteen days* after consent to take evidence by affidavit (Ord. XXXVII. 1), or within such time as may be agreed or allowed . .	XXXVIII. 25.
Defendant must file his affidavits and deliver a list thereof within *fourteen days* after delivery of plaintiff's list . . .	,, 26.
Plaintiff must file his affidavits strictly *in reply* and deliver a list thereof within *seven days* after expiration of defendant's time for filing affidavits	,, 27
Cross-examinations.—Any party desiring to cross-examine a deponent must serve a notice in writing requiring production of the witness for cross-examination at the trial, within *fourteen days* after the end of the time allowed for filing affidavits in reply, or such time as the Court or a Judge may specially appoint. If witness not produced his affidavit cannot be used in evidence without special leave. The party producing the deponent cannot demand the expenses of production in the first instance	,, 28.
The party receiving notice may compel production of the deponent in the same way as he might compel the attendance of a witness to be examined	,, 29.
Affidavits filed before issue joined.—No such affidavit will be received at the hearing or trial of any cause or matter without special leave, unless within *one month* after issue joined, or within such longer time as may be allowed, notice in writing has been given of the intention to use it	XXXVII. 24.
Printing affidavits.—Affidavits for use on the hearing must be printed	XXXVIII. 30.
The previous rule does not apply to affidavits which have been previously used in any proceeding without being printed .	LXVI. 6.
Mode of printing, and furnishing copies	,, 3, 7.

680. Consent to evidence in chief being taken by affidavit (*g*). [Dan. Pr. 613.]

(*Title and reference to the record.*)

We, the undersigned solicitors for the plaintiff and defendants, hereby mutually agree that the evidence in chief in this action, to be used at

(*g*) See R. S. C. Ord. XXXVII. 1; XXXVIII. 25; and note (*f*), *supra*; 1 Seton, 21. The consent must be a formal written consent: *New Westminster Brewery Co.* v. *Hannah*, 1 Ch. D. 278. The guardian *ad litem*, or guardian of an infant defendant, may consent without an order of the Court: *Knatchbull* v. *Fowle*, 1 Ch. D. 604; *Fryer* v. *Wiseman*, 24 W. R. 205; 1 Seton, 21.

the trial thereof, shall be taken by affidavit (*If it is desired to alter the times limited by R. S. C. Ord. XXXVIII.* 25—27, *for the parties to file their affidavits, add:* And that the plaintiff shall, within —— days from the date of this consent, or within such further time as the Court or a Judge may allow, file his affidavits and deliver to the defendants' solicitors a list thereof; and that the defendants shall, within —— days after the delivery of such list, or within such further time as the Court or a Judge may allow, file their affidavits and deliver to the plaintiff's solicitor a list thereof; and that the plaintiff shall, within —— days after the delivery of such last-mentioned list, or within such further time as the Court or a Judge may allow, file his affidavits in reply, and deliver to the defendants' solicitors a list thereof).

Dated this —— day of ——, 188—.

L. M., solicitor for the plaintiff,
N. O., solicitor for the defendant C. D.,
P. Q., solicitor for all the other defendants.

681.

Application for consent to enlargement of time for filing affidavits (*h*).

Dear Sirs, (*Place and date.*)

A. *v.* B.

On behalf of the plaintiff [*or*, defendant] I [we] beg to apply to you for a consent to the time for filing evidence in chief [*or*, in answer—*or*, in reply], being enlarged for —— days from this date.

Yours, *&c.*,
(*Signature.*)

Messrs. Smith & Co.

682.

Consent to enlargement of time for filing affidavits (*i*).

(*Short title and reference to the record.*)

I hereby, on behalf of the defendant [*or*, plaintiff], consent to the plaintiff [*or*, defendant] having —— days further time from this date [*or*, having until the —— day of ——] to file his affidavits in chief [*or*, in answer—*or*, in reply—*as may be*].

Dated the —— day of ——, 188—.

X. Y.,
Solicitor for the defendant [*or*, plaintiff].

683.

Joint consent to enlargement of time for filing affidavits (*i*).

(*Short title and reference to the record.*)

We the undersigned, on behalf of the plaintiff and defendant respectively, hereby consent to the time for the plaintiff to file his affidavits for use on the trial of this action being enlarged for —— days from this

(*h*) See R. S. C. Ord. LXIV. 8. The application is usually made by letter as above; but a more formal application may be made by notice duly served, if it is thought desirable. As to the costs of an application to enlarge time, unless preceded by a request for consent, see R. S. C. LXV. 27 (24).

(*i*) See *Ibid.*

date [*or*, until —— the —— day of —— instant]; the defendant's affidavits to be filed within —— days after delivery of the list of plaintiff's affidavits; and the plaintiff's affidavits in reply to be filed within —— days after delivery of the list of defendant's affidavits.

Dated the —— day of ——, 188—.

X. Y., solicitor for the plaintiff.
N. O., solicitor for the defendant.

684.

Summons to enlarge time for filing affidavits (*j*). [Dan. Pr. 614.]

Formal parts: see Form 43.

on the part of the plaintiff [*or*, defendant], that he may have —— days further time to file his affidavits for use on the trial of this action in chief [*or*, in answer—*or*, in reply—*as may be*], and to deliver a list thereof to the defendant [*or*, plaintiff] or his solicitors;

If the time has already expired, add: notwithstanding the expiration of the time allowed for that purpose;

and that the costs of this application may be costs in the action.

685.

List of plaintiff's affidavits (*k*). [Dan. Pr. 613.]

Formal parts: see Form 37.

Take notice that the plaintiff has filed, and intends to read at the trial of this action, the following affidavits; that is to say:

An affidavit of P. Q., filed the ——, 188—.
An affidavit of R. S., filed the ——, 188—.
An affidavit of T. U., filed the ——, 188—.

686.

List of defendant's affidavits (*l*). [Dan. Pr. 614.]

Formal parts: see Form 37.

Take notice that the defendant C. D. [*or as may be*] has filed, and intends to read at the trial of this action, the following affidavits; that is to say:

An affidavit of P. Q., filed the ——, 188—.
An affidavit of R. S., filed the ——, 188—.

687.

List of plaintiff's affidavits in reply (*m*). [Dan. Pr. 614.]

Formal parts: see Form 37.

Take notice that the plaintiff has filed, and intends to read at the trial of this action, the following affidavits in reply; that is to say:

An affidavit of P. Q., filed the ——, 188—.
An affidavit of R. S., filed the ——, 188—.

(*j*) As to times for filing affidavits, see R. S. C. Ord. XXXVIII. 25—27; and note (*f*), *supra*. Unless the order made on the summons contains any special directions, it need not be drawn up: see R. S. C. Ord. LII. 14.

(*k*) See R. S. C. Ord. XXXVIII. 25; and note (*f*), *supra*.

(*l*) *Ibid.*, 26; and note (*f*), *supra*.

(*m*) *Ibid.*, 27; and note (*f*), *supra*.

688.

Notice of intention to read affidavits filed before issue joined (*n*). [Dan. Pr. 619, cccLxxiii.]

Formal parts: see Form 37.

Take notice that the plaintiff [*or as may be*] intends to read, at the trial of this action, the following affidavits filed before issue was joined therein; that is to say:

The affidavit of C. D., filed the ——, 188—.

The joint affidavit of E. F. and G. H., filed the ——, 188—.

689.

Summons for leave to use affidavits filed before issue joined, though no notice to read given (*n*). [Dan. Pr. 619, cccLxxiii.]

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be*] that, notwithstanding the time limited for giving notice of the applicant's intention to read the affidavit of R. S. and T. E. filed in this action on the —— day of ——, 188— before issue was joined therein, has expired, the applicant may be at liberty to read the said affidavit on the trial of this action: without prejudice to the right of the defendant [*or as may be*] to cross-examine the deponents on their said affidavits in Court, on such trial and that the costs of this application may be costs in this action.

690.

Summons for leave to use affidavit filed after expiration of time allowed (*o*). [Dan. Pr. 617.]

Formal parts: see Form 43.

on the part of the plaintiff [*or*, defendant], that notwithstanding the expiration of the time allowed for the applicant to file his affidavits in chief [*or*, in answer—*or*, in reply—*as may be*], for use on the trial of this action, and to deliver a list thereof, he may be at liberty to read and use on the trial of this action the affidavit of X. Y., filed the —— day of ——, 188—, in the same manner as if the same had been filed with the affidavits in chief [*or*, in answer—*or*, in reply—*as may be*] already filed by the applicant for use on such trial, and had been included in the list thereof delivered to the defendant [*or*, plaintiff] or his solicitors.

691.

Summons for further time to serve notice requiring production of deponents for cross-examination (*p*). [Dan. Pr. 614.]

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be*], that he may have —— days' further time to serve a notice, requiring the production of the deponents who have made the affidavits filed on behalf of the defendants [*or as may be*], for cross-examination before the Court at the trial of this action

If the time has already expired, add: notwithstanding the expiration of the time allowed for that purpose;

and that the costs of this application may be costs in the action.

(*n*) See R. S. C. Ord. XXXVII. 24; and note (*f*), *supra*.

(*o*) The application should be supported by an affidavit showing special circumstances.

(*p*) See R. S. C. Ord. XXXVIII. 28; and note (*f*), *supra*.

692.
Notice to produce deponents for cross-examination (*q*). [Dan. Pr. 614.]

Formal parts: see Form 37.

Take notice that the plaintiff [*or*, the defendant C. D.—*or as may be*] intends, at the trial of this action, to cross-examine the several deponents named and described in the schedule hereto on their affidavits therein specified.

And take also notice that you are hereby required to produce the said deponents for such cross-examination before the Court at the trial of this action accordingly.

Name of deponent.	Description.	Date when affidavit filed.
Isaac Hart,	Lymington, Hants, Labourer . .	19th August, 1884.
Thos. Brown,	Same place, Shop Keeper . . .	18th August, 1884.
Wm. Jones,	Same place, Esquire	19th August, 1884.

693.
Consent that cross-examination shall be taken before an examiner. [Dan. Pr. 616.]

(*Same as* Form 699.)

694.
Notice of motion or summons that the cross-examination of a particular witness or witnesses may be taken before an examiner. [Dan. Pr. 616.]

(*Same as* Forms 704, 705, 706.)

695.
Summons to vary or discharge agreement to take evidence by affidavit (*r*). [Dan. Pr. 615.]

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be*] that, notwithstanding the agreement in writing dated the —— day of ——, 188—, signed by the

(*q*) *Ibid.* As to compelling the attendance of the deponent for cross-examination, see R. S. C. Ord. XXXVIII. 29; and note (*f*), *supra*. These rules apply only to the trial of an action: *Ex parte Child*, 20 Ch. D. 126; *Re Knight, Knight* v. *Gardner*, 25 Ch. D. 297: 32 W. R. 469; but see also R. S. C. Ord. XXXVII. 21—23. As to right of cross-examination where the affidavits are not read, see *Massam* v. *Thorley's Cattle Food Co.*, W. N. (1879), 181: 28 W. R. 295; *Ex parte Child*, 20 Ch. D. 126; *In re Quartz Hill Co., Ex parte Young*, 21 Ch. D. 642: 31 W. R. 173.

(*r*) The application should be supported by an affidavit of the facts. As to the jurisdiction of the Court to refuse or permit affidavits to be read, where the Judge is of opinion that, notwithstanding the consent of the parties to the evidence being taken by affidavit, the witnesses should be examined *viâ voce*, see *Lovell* v. *Wallis*, W. N. (1883), 231.

solicitors for the plaintiff and defendant respectively, whereby it was provided that the evidence to be used on the trial of this action should be taken by affidavit, A. B., a material and necessary witness on behalf of the applicant, may be examined *vivâ voce* in open Court at the trial of this action.

Or,

that the agreement in writing dated the —— day of ——, 188—, signed by the solicitors for the plaintiff and defendant respectively, whereby it was provided that the evidence to be used on the trial of this action should be taken by affidavit, may be discharged, on the ground that A. B., C. D., and E. F. [*or as may be*], who are material and necessary witnesses on behalf of the applicant, refuse to make affidavits on his behalf; and that the witnesses of the plaintiff and defendant respectively may be examined *vivâ voce* in open Court at the trial of this action; and that the costs of this application may be costs in the action.

696.

Summons for order that particular facts may be proved by affidavit (*s*). [Dan. Pr. 618.]

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be*], that he may be at liberty, at the trial of this action, to prove the following facts by affidavit; that is to say:

1. }
2. } (*Specify the facts distinctly and concisely.*)
3. }

697.

Summons for order to read the affidavit of a witness unable to attend the trial (*t*). [Dan. Pr. 618.]

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be*], that he may be at liberty to read, at the trial of this action, the affidavit of X. Y., of (*Place of abode and description*); and that the attendance in Court at the trial of this action of the said X. Y. may be dispensed with.

698.

Affidavit in support. [Dan. Pr. 618.

Formal parts: see Form 6.

1. (*Show that X. Y. is a material and necessary witness for the applicant; see paragraph* 1 *of* Form 707.)

2. (*Show that the witness cannot be produced in Court at the trial of the action; see paragraph* 2 *of* Form 707.)

3. (*Show means of knowledge.*)

(*s*) See R. S. C. Ord. XXXVII. 1. For form of order, see 2 Seton, 1634, No. 3.
(*t*) See R. S. C. Ord. XXXVII. 1.

SECTION IV.—TESTIMONY OF WITNESSES—VIVA VOCE EVIDENCE (*a*).

(*Dan. Pr.*, pp. 639—653, cccLxxvi.—cccLxxviii.)

(*a*) *Vivâ voce evidence.*—The *vivâ voce* examination of witnesses may take place before (1) the Court (R. S. C. Ord. XXXVII. 1); (2) a referee (Ord. XXXVI. 49); (3) an examiner of the Court or special examiner (Ord. XXXVII. 13); (4) commissioners (*Ibid.*); (5) a chief clerk (Ord. LV. 16, 17).

(1.) *Examination of Witnesses out of Court* (*b*).

(*b*) *Examination of Witnesses.—Summary of Material Provisions of R. S. C.* 1883.

	ORDER.	
Any witness whose attendance ought for some sufficient cause to be dispensed with may be ordered to be examined by interrogatories or otherwise before a commissioner or examiner	XXXVII.	1.
Court may order examination.—The examination may be ordered upon oath before the Court, or Judge, or any officer of the Court, or any other person, and at any place, of any witness or person, and any party to any cause or matter may be empowered to give such deposition in evidence	,,	5.
Request to examine witnesses in lieu of commission.—If so ordered such request may issue. The order and letter of request must be in the prescribed form. (See R. S. C. Oct. 1884, 6; App. Nos. 1, 2)	,,	6*a*.
Disobedience to order.—Any person wilfully disobeying an order to attend and be examined will be deemed guilty of contempt of Court	,,	8
Expenses of witness.—Any person required to attend for the purpose of being examined is entitled to the like conduct-money and payment for expenses and loss of time as upon attendance at a trial in Court. (See also R. S. C. Ord. XXXVII. 21—23.)	,,	9.
Copy of pleadings for examiner.—The person taking the examination must be furnished by the party obtaining the order with a copy of the writ and pleadings, or of such documents as are necessary to inform him of the questions at issue between the parties.	,,	10.
Persons entitled to be present at examination.—The parties, their counsel, solicitors, or agents	,,	11.
Depositions how taken.—They must be taken down in writing by or in the presence of the examiner; must be read over to the witness and signed by him, or by the examiner in case of refusal by the witness to sign. Any particular question or answer may be put down by the examiner. Questions objected to must be taken down by the examiner, who must state his opinion thereon to the parties, and refer to such statement in the deposition, but he cannot decide upon the materiality or relevancy of any question	,,	12.
Refusal of witness to attend or be sworn.—In such case a certificate of refusal signed by the examiner must be filed in the Central Office, and an application may be made, *ex parte* or on notice, for an order on the witness to attend, or to be sworn, or to answer any question	,,	13.
Objection by witness to question.—The question and objection must be taken down by the examiner, and transmitted to the Central Office to be filed, and the validity of the objection will be decided by the Court or a Judge	,,	14.
Costs occasioned by refusal or objection may be ordered to be paid by the witness	,,	15.
Filing depositions.—The original depositions, signed by the examiner, must be filed at the Central Office	,,	16.
Special report by examiner.—The examiner may make a special report to the Court, as to the examination, and the conduct or absence of any witness	,,	17.

ORDER.

When deposition may be given in evidence.—Except where otherwise provided, no deposition can be given in evidence at the hearing or trial of the cause or matter, without the consent of the party against whom the same may be offered, unless the Court or Judge is satisfied that the deponent is dead, or out of the jurisdiction, or unable from illness to attend the trial . XXXVII. 18.

Administering oaths.—Any person directed to take the examination of any witness may administer oaths . . . . ,, 19.

Subpœna.—The attendance of a witness for examination may be enforced by *subpœna* . . . . . ,, 20.

Special directions.—Special directions as to taking evidence after the trial may be given in any case . . . . . ,, 23.

Notice to use deposition at trial: when required.—No deposition made before issue joined can be received at the hearing or trial, without special leave, unless within *one month* after issue joined notice has been given . . . . . ,, 24.

Printing depositions.—Where any written deposition of a witness has been filed, it must be printed, unless otherwise ordered; except such depositions as have been previously used without having been printed . . . . . LXVI. 5, 6.

Mode of printing, and copies . . . . . ,, 3, 7.

(A.) *Before an Examiner of the Supreme Court, or a Special Examiner* (*c*).

(*c*) *Examiners of the Court.—Summary of Material Provisions of R. S. C.* 1883, *as amended by R. S. C. 4th Feb.*, 1884, *and Oct.*, 1884.

ORDER.

The examination of any witness or person ordered to be examined under R. S. C. Ord. XXXVII. 1, 5, must, unless otherwise specially directed, be taken before one of the examiners of the Court . . . . . XXXVII. 39.

Mode of distribution of business amongst examiners.—The examinations must be distributed amongst the examiners in rotation by a clerk to the Chancery Registrars, who must make the distribution in such a manner as to keep the rotation secret . . . . . ,, 41, 42.

Reference to examiner: how obtained.—The party prosecuting the order must produce it or a duplicate of it to the Registrar's clerk, who will add at the foot a memorandum specifying the name of the examiner in rotation: the order must be left by the party with the examiner, and will be a sufficient authority to him to proceed . . . . . ,, 43.

Appointment for examination.—The examiner must give an appointment in writing to the party having conduct of the order, specifying the place and time (within not more than *seven days*) for the examination. The party prosecuting the order must within *twenty-four hours*, or such shorter time as may be mentioned in the order, give notice of the appointment to all parties . . . . . ,, 44.

Examination: how conducted.—The examiner must have regard to the convenience of the witnesses, &c., in fixing the place and time for examination, and, subject to any adjournment he may think necessary or just, he must proceed *de die in diem* . . ,, 45.

Examination of persons not named in order.—With consent in writing of all parties the examiner may take the examination of any witnesses in addition to those named in the order, and must annex such consent to the original depositions . . ,, 46.

Completion of examination.—On completion the examiner must indorse the original depositions with a note authenticated by his signature, certifying the number of hours or days exclu-

	Order.
sively employed in the examination and the fees received in respect thereof	XXXVII. 47.
Inability of examiners.—In case of inability or refusal on the part of the examiner in rotation, the examination must be assigned to another examiner according to the rotation; but an examiner before whom an examination is pending must decline any other examination, where delay or inconvenience will be caused	,, 48.
Reference to particular examiner.—An examination may be specially directed or transferred to any one in particular of the examiners	,, 49.
Payment of fees—Payment of fees due to an examiner may be ordered without prejudice to any question as to the party by whom the costs of the examination should eventually be borne	,, 50.

699.

Consent to *vivâ voce* evidence being taken before an examiner (*d*). [Dan. Pr. 639.]

(*Title and reference to the record.*)

We, the undersigned solicitors for the plaintiff and defendants in this action, hereby mutually agree that the *vivâ voce* examination in chief, cross-examination, and re-examination of all the witnesses in this action [*or*, of X., Y., and Z., witnesses in this action]

Or, if the evidence in chief has been given by affidavit, say : that the cross-examination and re-examination of all persons who have made or shall make affidavits to be used at the trial of this action [*or*, of X., Y., and Z., who have made affidavits to be used at the trial of this action]

shall be taken before one of the examiners of this Court [*or*, before an examiner to be specially appointed for taking the examination of witnesses in this action].

Dated this —— day of ——, 188—.

L. M., solicitor for the plaintiff.
N. O., solicitor for the defendant C. D.
P. Q., solicitor for all the other defendants.

700.

Summons for leave to consent, on behalf of a person under disability, to the evidence being taken before an examiner (*e*). [Dan. Pr. 616.]

Formal parts : see Form 43.

on the part of the plaintiff [*or*, defendant], A. B., an infant, by C. D., his next friend [*or*, guardian] :

or, a person of unsound mind, so found, by C. D. his committee :

(*d*) As to the examiners of the Court, see R. S. C. Ord. XXXVII. 39—44, and 46, 49 ; R. S. C. Oct. 1884, 7—10 ; and note (*c*), *supra*. Notwithstanding the consent, it would seem that an order for the examination must be obtained, so as to enable the Registrar's clerk to allot the examination to the examiner in rotation. For form of summons, see Form 701.

(*e*) See R. S. C. Ord. XVI. 21 ; but whether an order is necessary, *quære :* see *per* Jessel, M. R., *Leeming* v. *Murray*, 28 W. R. 338 ; *Knatchbull* v. *Fowle*, 1 Ch. D. 604 ; *Fryer* v. *Wiseman*, 24 W. R. 205. In the case of a lunatic the consent by his committee will not be valid as between him and the lunatic, unless given with the sanction of the Lord Chancellor or Lords Justices sitting in lunacy.

or, a person of unsound mind not so found by C. D. his next friend [*or*, guardian]:

that the said C. D. may be at liberty, on behalf of the said A. B., to consent that (*State the proposed mode of taking evidence, in respect of which the consent is to be given; as thus:* the *vivâ voce* examination in chief, cross-examination, and re-examination of all the witnesses in this action shall be taken before one of the examiners of this Court).

701.

Summons for examination of witnesses before an examiner (*f*).

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be*], that the *vivâ voce* examination in chief, cross-examination, and re-examination of all the witnesses in this action [*or*, of X., Y., and Z., witnesses in this action],

Or, if the evidence in chief has been given by affidavit, say: that the cross-examination and re-examination of all persons who have made or shall make affidavits to be used at the trial of this action [*or*, of X., Y., and Z., witnesses who have made affidavits to be used at the trial of this action],

may be taken before one of the examiners of this Court.

702.

Notice of motion or summons for the appointment of a special examiner (*g*).

[Dan. Pr. 641.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or*, of the defendant C. D.—*or as may be*], that A. B., of (*address*), barrister-at-law [*or*, one of the solicitors of the Supreme Court—*or as may be*], may be appointed special examiner for the purpose of taking (*State what; as thus:*

the *vivâ voce* examination in chief, cross-examination, and re-examination of witnesses in this action; *or*,

(*f*) As to the mode of obtaining a reference to the examiner in rotation, see R. S. C., 4th Feb. 1884, Ord. XXXVII. 41—43; and note (*e*), *supra*. As to the mode of procedure before the examiner, and consequent thereon, see R. S. C. Ord. XXXVII. 10—24, 44, 46, 49; R. S. C. 4th Feb. 1884; and notes (*b*), and (*c*), *supra*. As to the necessity for an order, see note (*d*) to Form 699. The fees of an examiner of the Court are: Within three miles from the Royal Courts of Justice, one guinea payable on obtaining the examiner's note of the time and place of examination, and half a guinea for each hour occupied in the examination beyond two hours, payable as soon as the examination has been concluded. A fee of 2*s.* 6*d.* is payable to the examiner's clerk, and in addition 2*s.* 6*d.* a day where the examination occupies more than three hours. Where the examination is elsewhere than within the said three miles, a fee of five guineas is payable to the examiner on obtaining his note, and five guineas for every day of six hours, or part of a day, occupied in such examination, beyond the first day, payable on completion of the examination. The party prosecuting the order must also, on completion of the examination, pay all reasonable travelling and other expenses, including charges for the room (other than the examiner's chambers) where the examination is taken: see R. S. C. Ord. 4th Feb. 1884; R. S. C. Oct. 1884, 10.

(*g*) The Lord Chancellor has, in accordance with the provisions of R. S. C. 4th Feb. 1884, Ord. XXXVII. 40, appointed twenty-five examiners of the Court. It is apprehended that the power to appoint special examiners will be resorted to much less frequently than hitherto, and that very special circumstances will be required to be shown in support of any such application.

the *vivâ voce* examination in chief, cross-examination, and re-examination of X., Y., and Z., witnesses in this action ;

or, the cross-examination and re-examination of all persons who have made or shall make affidavits to be used at the trial of this action ;

or, the cross-examination and re-examination of X., X., and Z., who have made affidavits to be used at the trial of this action,)

with all usual directions.

703.
Affidavit in support.
[Dan. Pr. 641.]

Formal parts : see Form 6.

1. (*State special circumstances showing that it is necessary or proper that a special examiner should be appointed*) (*h*).

2. A. B., the person proposed to be appointed special examiner as aforesaid, is a barrister-at-law [*or*, one of the solicitors of the Supreme Court—*or as may be*]. He has no interest in the matters in question in this action ; and in my judgment he is a fit and proper person to be appointed such special examiner as aforesaid.

3. (*Show means of knowledge.*)

704.
Notice of motion or summons to dispense with the attendance in Court of a witness, and to have his evidence taken before an examiner of the Court (*i*).
[Dan. Pr. 639, cccl.xxvi.]

Formal parts : see Form 38 *or* 43.

on the part of the plaintiff [*or*, of the defendant C. D.—*or as may be*], that the attendance in Court on the trial of this action of X. Y., of (*residence and addition*), a witness in this action on behalf of the plaintiff [*or as may be*],

Or, of X. Y., of (*residence and addition*), a person who has made an affidavit, filed in this action on the —— day of ——, 188—, on behalf of the plaintiff [*or as may be*], and for whose production for cross-examination on his said affidavit before the Court at the trial of this action notice has been given (*j*),

may be dispensed with ; and that the *vivâ voce* examination in chief, cross-examination, and re-examination of the said X. Y.

Or, and that the cross-examination of the said X. Y. upon his said affidavit

may be taken before G. M., Esquire, one of the examiners of this Court (*State where*) ;

If the examiner is to attend out of London, add : And that directions may be given for such examiner to attend at (*State where*) for the purpose of taking such examination [*or*, cross-examination] ;

And that the depositions taken upon such examination [*or*, cross-examination] may be ordered to be filed in this Court. And that all parties may be at liberty to use the same as evidence in this action, saving all just exceptions (*k*).

(*h*) See note (*g*) to Form 702.
(*i*) See R. S. C. Ord. XXXVII. 1 ; and note (*b*), *supra*.
(*j*) See R. S. C. Ord. XXXVIII. 28 ; and Form 692.
(*k*) See R. S. C. Ord. XXXVII. 5 ; and note (*b*), *supra*.

705.

Notice of motion or summons to dispense with the attendance in Court of a witness, and to have his evidence taken before a special examiner (*l*). [Dan. Pr. 639, cccLxxvi.]

Formal parts : see Form 38 *or* 43.

on the part of the plaintiff [*or*, of the defendant C. D.—*or as may be*], that (*proceed as in* Form 704, *down to the words* "may be dispensed with"). And that G. H., of (*address*), barrister-at-law [*or*, a solicitor of the Supreme Court—*or as may be*], may be appointed examiner for the purpose of taking the examination of the said X. Y. And that the examination in chief, cross-examination, and re-examination of the said X. Y.

Or, And that the cross-examination of the said X. Y. upon his said affidavit

may be taken before the said G. H. accordingly at (*State where*) ; and that the depositions taken upon such examination [*or* cross-examination] may be ordered to be filed in the Central Office of the Supreme Court of Judicature. And that all parties may be at liberty to use the same as evidence in this action, saving all just exceptions (*k*).

706.

The like, where evidence to be taken abroad (*m*). [Dan. Pr. 639, cccLxxvi.]

Formal parts : see Form 38 or 43.

on the part of the plaintiff [*or as may be*] :

1. That the attendance in Court on the trial of this action of J. B., of ——, a witness in this action on behalf of the plaintiff [*or as may be*]

Or, of J. B., of ——, a person who has made an affidavit, filed in this action on the —— day of ——, 188—, on behalf of the plaintiff [*or as may be*], and for whose production for cross-examination on his said affidavit before the Court at the trial of this action notice has been given (*n*),

may be dispensed with. And that the *vivâ voce* examination in chief, cross-examination, and re-examination of the said J. B.

Or, And that the cross-examination of the said J. B. upon his said affidavit

may be taken before the examiner hereinafter named.

2. That in case the said J. B. shall be resident at or near M., in the colony of V., or in case the examination of the said J. B. can be conveniently taken at M. aforesaid, or in the said colony, J. G. F., of M. aforesaid, esquire, barrister-at-law, may be appointed an examiner for the examination of the said J. B. in this action.

3. That in case the said J. G. F. shall die or cease to reside within the said colony of V., before the taking or completion of the evidence of the said J. B., or shall decline or be unable to take the same, G. M. S., of M. aforesaid, gentleman, may be appointed an examiner for the examination of the said J. B.

(*k*) See R. S. C. Ord. XXXVII. 5 ; and note (*b*), *supra*.

(*l*) See R. S. C. Ord. XXXVII. 4 ; and note (*b*), *supra*. For form of order, see R. S. C. App. K., No. 35.

(*m*) *Ibid.* This form follows the order in *Croft* v. *Middleton*, V.-C. T. 31 Jan. 1853, Reg. Lib. 405 ; 9 Hare, App. 75.

(*n*) See R. S. C. Ord. XXXVIII. 28 ; and Form 692.

4. That in case the said J. B. shall be resident at or near A., in the colony of S., or in case the examination of the said J. B. can be conveniently taken at A. aforesaid, or within the said colony of S., J. M. S., of A. aforesaid, gentleman, may be appointed an examiner for the examination of the said J. B.

5. That in case the said J. M. S. shall die or cease to reside within the said colony of S., before the taking or completion of the evidence of the said J. B., or shall decline or be unable to take the same, W. J. W., of A. aforesaid, gentleman, may be appointed an examiner for the examination of the said J. B.

6. That the depositions taken upon such examination may be ordered to be filed in this Court, and that all parties may be at liberty to use the same as evidence in this action, saving all just exceptions (*o*).

707.

Affidavit in support of application to dispense with the attendance in Court of a witness. [Dan. Pr. 639, cccIxxvi.]

Formal parts: see Form 6.

1. *If the witness is to be examined in chief, proceed thus:* X. Y., of (*address*), is a material and necessary witness for me [*or*, for the plaintiff —*or*, for the defendant C. D.] on the trial of this action, and I am advised and verily believe that I [*or*, the said plaintiff—*or*, the said defendant C. D.] cannot safely proceed to the trial of this action without the evidence of the said X. Y.

But if the witness is to be cross-examined on an affidavit made by him (*p*), *say:* 1. All parties to this action having consented that the evidence to be read and used at the trial thereof should be taken by affidavit, an affidavit of X. Y., of (*address and description*), was on the —— day of ——, 188—, filed in this action on behalf of the plaintiff [*or as may be*]. On the —— day of ——, 188—, the defendant C. D. [*or as may be*], gave notice in this action requiring the production of the said X. Y. for cross-examination on his said affidavit before the Court at the trial of this action.

2. *Show that the attendance of the witness or witnesses cannot be obtained in Court at the trial* (*q*); *as thus:* The said X. Y., for —— years now last past has been, and now is, by reason of great age and permanent infirmity, bed-ridden and unable to leave his house [*or*, The said X. Y. is resident at ——, in the (Kingdom) of ——, out of the jurisdiction of this Honourable Court, and refuses to proceed to England for the purpose of giving evidence at the trial of this action—*or as may be*].

3. (*If the appointment of a special examiner is asked for, state the circumstances rendering such appointment necessary or proper, and prove*

(*o*) See R. S. C. Ord. XXXVII. 5; and note (*b*), *supra*.
(*p*) See R. S. C. Ord. XXXVIII. 28; and Form 692.
(*q*) This must be shown; *The M. Moxham*, 1 P. D. 116.

the fitness of the person sought to be appointed: for form, see Form 703.)

4. (*State means of knowledge*).

708.

Notice to be served on a witness required to attend before an examiner of the Court, or before a special examiner. [Dan. Pr. 641.]

Formal parts: see Form 37.

Take notice, that you are required to attend before G. M., Esquire, one of the examiners of this Court [*or*, the examiner specially appointed for the examination of witnesses in this action], at (*State where; as thus:* his Chambers, No. 6, New Square, Lincoln's Inn—*or*, the Red Lion Inn, Wells, in the County of Somerset), on —— the —— day of ——, 188—, at —— o'clock in the ——noon, to give evidence on the part and behalf of the above-named plaintiff [*or*, defendant A. B., *or as may be*].

709.

Enforcing attendance of a witness before an examiner. [Dan. Pr. 641—645.]

(*See* Forms 733 *to* 768.)

710.

Oaths and affirmations before an examiner.

(*See* Forms 770, 772, 774, 776, 778, 780.)

711.

Formal parts of depositions of witnesses examined before an examiner (*r*). [Dan. Pr. 645.]

In the High Court of Justice, 118—. B. No. .
Chancery Division.
(*Name of Judge.*)
Between A. B. . . . . Plaintiff,
and
C. D. and E. F. . . . Defendants.

(*r*) For mode of procedure before an examiner, see R. S. C. 1883, Ord. XXXVII. 10—24, 44, 46, 49; R. S. C. 4th Feb. 1884; R. S. C. Oct. 1884, 7—10; and notes (*b*), and (*c*), *supra*. The fees payable on an examination before an examiner of the Court are as follows, viz:—On the memorandum of appointment, 5*s.*: on each witness sworn and examined in the examiner's office, including the oath, for each hour or part of an hour 10*s.*; or, if away from the office, 3*l. per diem* in addition to reasonable travelling and other expenses; a deposit on account of fees and expenses may be required, and an undertaking to pay any further fees and expenses which may become payable; see Ord. as to S. C. Fees, 1884, Sched. Nos. 48—51. The fees are payable by means of adhesive stamps, which may be affixed either to the deposition or to the order or memorandum of appointment for an examination: Ord. as to Fees, &c., July, 1884, p. 8. As to filing depositions, see R. S. C. Ord. XXXVII. 16. A fee of 2*s.* 6*d.* is payable on filing: by a stamp impressed on or adhesive to the deposition: Ord. as to S. C. Fees, 1884, Sched. No. 29; Ord. as to Fees, &c., July, 1884, p. 6. As to printing depositions and copies, see R. S. C. Ord. LXVI. 3, 5, 7.

Depositions of witnesses examined in the above action at (*State where*),

before me,

G. M., one of the examiners of the Court [*or*, special examiner appointed by order in this action, dated the —— day of ——, 188—].

Sworn the —— day of ——, 188—. } X. Y., of (*residence and addition*), examined on behalf of the plaintiff [*or as may be*], saith as follows :

I was not, *&c.*

The plaintiff did not, *&c.*

—— day of ——, 188—. } Examination continued.

When I saw, *&c.*

Cross-examined on behalf of the defendant E. F. [*or as may be*] :—

I am now, *&c.*

Re-examined on behalf of the plaintiff :

The defendant E. F. was not, *&c.*

Cross-examined on behalf of the defendant E. F., upon new matter in the re-examination :

Having now seen, *&c.*

Re-examined on behalf of the plaintiff :

My impression still is, *&c.*

Where questions are objected to ; (*s*)

Question.—Was there any agreement ?

(This question was objected to on behalf of the defendant E. F. I stated that in my opinion the question was proper [*or as may be*] ; and I refer it to the Court.

G. M.)

Question.—Did B. insist on those persons being parties to the conveyance ?

(The witness objected to answer this question, on the ground that his knowledge as to that matter was acquired as solicitor for Mr. B. I stated that in my opinion the question was not proper [*or as may be*] ; and I refer it to the Court.

G. M.)

X. Y.

Sworn the —— day of ——, 188—. } T. Z., of (*&c. ; as above*).

T. Z.

I hereby certify that the evidence contained in this and the —— preceding sheets of paper was taken by me, and was afterwards read over to the respective witnesses, and signed by them in the presence of the parties attending.

G. M.

(*s*) See R. S. C. Ord. XXXVII. 12 ; and note (*b*), *supra*.

712.

Formal parts of depositions of witnesses, where the examination takes place at different places. [Dan. Pr. 645.]

(*Title and reference to the record: as in* Form 711.)

Depositions of witnesses examined in the above action at the times and places hereinafter mentioned,

before me,

G. M., one of the examiners of the Court [*or*, special examiner (*&c.; as in* Form 711)].

I. At the Red Lion Hotel, Wells, in the county of Somerset.

Sworn the —— day of ——, 188—. } X. Y., of (*&c.; as in* Form 711).

II. At the Crown Hotel, Bath, in the county of Somerset.

Sworn the —— day of ——, 188—. } T. Z., of (*&c.; as in* Form 711).

I hereby certify (*&c.; as in* Form 711).

713.

Formal parts of deposition of a witness cross-examined on his affidavit before an examiner. [Dan. Pr. 645.]

(*Title and reference to the record: as in* Form 711.)

Deposition of a witness cross-examined in the above action at (*State where*),

before me,

G. M., one of the examiners of the Court [*or*, special examiner (*&c.; as in* Form 711)].

Sworn the —— day of ——, 188—. } X. Y., cross-examined on the part of the plaintiff [*or as may be*] on his affidavit, filed the —— day of ——, 188—, in this action, saith as follows:

I was formerly, *&c.*

Re-examined on the part of the defendant E. F. [*or as may be*].

I still consider, *&c.*

X. Y.

I hereby certify (*&c.*; *as in* Form 711).

714.

Notice of intention to read depositions made before issue joined (*t*).

(*Same as* Form 688, *substituting* depositions *for* affidavits.)

715.

Summons for leave to use depositions made before issue joined, though no notice given (*t*).

(*Same as* Form 689, *substituting* depositions *for* affidavits.)

(*t*) See R. S. C. Ord. XXXVII. 24: and note (*b*), *supra*.

(B.) *By Commission* (*u*).

716. Notice of motion or summons for commission to issue for the examination of witnesses abroad (*v*). [Dan. Pr. 647, cclxxvii.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that he may be at liberty to sue out a commission directed to two commissioners, one to be named by the plaintiff and the other to be named by the defendant, for the examination *vivâ voce* [*or*, upon interrogatories—*or*, upon interrogatories and *vivâ voce*], at ——, or elsewhere, in the (Kingdom) of ——, of witnesses in this action resident in the said (Kingdom) of ——, on behalf of all parties to this action [*or*, of C. D. and E. F., as witnesses in this action on behalf of the plaintiff; *or as may be*]. And that the depositions to be taken under and by virtue of the said commission may be ordered to be filed in the Central Office of the Supreme Court of Judicature. And that all parties may be at liberty to use the same as evidence in this action, saving all just exceptions. And that the attendance in Court on the trial of this action of any witnesses who shall have been examined under the said commission may be dispensed with without any further proof of the absence from this country of such witnesses than an affidavit of the solicitor of the party desiring to use such evidence as to his belief of the absence of such witnesses. And that the trial of this action may be postponed until after the return of the said commission. And that the costs of this application and of the execution of the order to be made thereupon, and all costs incidental thereto, may be costs in the action.

---

717. Affidavit in support. [Dan. Pr. 647.]

Formal parts: see Form 6.

1. (*Prove that material and necessary witnesses are resident in the country to which it is proposed to issue the commission; for form, see paragraph* 1 *of* Form 707.)

---

718. *Præcipe* for commission(*w*). [Dan. Pr. 647.]

(*Title and reference to the record.*)

Seal, in pursuance of order dated the —— day of ——, 188—, a writ in the nature of a mandamus or commission to examine witnesses, directed to (*Here insert names of Commissioners*).

Dated —— day of ——. 188—.

(*Name and address of solicitor or party issuing commission.*)

(*u*) *Examination of witnesses by commission.*—See R. S. C. Ord. XXXVII. 1, 5; notes (*a*) and (*b*), *supra*. A commission may issue to examine a party, as well as a mere witness: see *Nadin* v. *Bassett*, 25 Ch. D. 21: 32 W. R. 70; *Armour* v. *Walker*, 25 Ch. D. 673: 32 W. R. 214; and see *Langen* v. *Tate*, 24 Ch. D. 522: 32 W. R. 189. For a case in which a commission was refused to examine a very material witness, where it appeared that he would not be subjected to efficient cross-examination, see *In re Boyse, Crofton* v. *Crofton*, 20 Ch. D. 760: 30 W. R. 812; see also *Lawson* v. *Vacuum Brake Company*, 27 Ch. D. 137; 33 W. R. 186. For form of order, see 2 Seton, 1636, No. 8; R. S. C. App. K., Nos. 36 and 37. As to examinations by commission, see Chitty's Arch, 309—316; Chitty's Forms, 310—323.

(*v*) See R. S. C. XXXVII. 1.

(*w*) See R. S. C. App. G., No. 17.

719.
Commission to examine witnesses (*x*). Dan. Pr. 648.]

(*Title and reference to the record.*)

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. To E. F., of (*address and description*), and G. H., of (*address and description*), commissioners named by and on behalf of the plaintiff; and to M. N., of (*address and description*), and O. P., of (*address and description*), commissioners named by and on behalf of the defendant, greeting: Know ye that we, in confidence of your prudence and fidelity, have appointed you and by these presents give you power and authority to examine on interrogatories and *viva voce* as hereinafter mentioned witnesses on behalf of the said plaintiff and defendant respectively, at ——, before you or any two of you, so that one commissioner only on each side be present and act at the examination.—And we command you as follows:

1. Both the said plaintiff and the said defendant shall be at liberty to examine on interrogatories and *vivâ voce*, on the subject-matter thereof or arising out of the answers thereto, such witnesses as shall be produced on their behalf, with liberty to the other party to cross-examine the said witnesses on cross-interrogatories and *vivâ voce*: the party producing any witness for examination being at liberty to re-examine him *vivâ voce*; and all such additional *vivâ voce* questions, whether on examination, cross-examination, or re-examination, shall be reduced into writing, and with the answers thereto shall be returned with the said commission.

2. Not less than —— days before the examination of any witness on behalf of either of the said parties, notice in writing, signed by any one of you, the commissioners of the party on whose behalf the witness is to be examined, and stating the time and place of the intended examination and the names of the witnesses to be examined, shall be given to the commissioners of the other party by delivering the notice to them, or by leaving it at their usual place of abode or business; and if the commissioners or commissioner of that party neglect to attend pursuant to the notice, then one of you, the commissioners of the party on whose behalf the notice is given, shall be at liberty to proceed with and take the examination of the witness or witnesses *ex parte*, and adjourn any meeting or meetings, or continue the same from day to day until all the witnesses intended to be examined by virtue of the notice have been examined, without giving any further or other notice of the subsequent meeting or meetings.

3. In the event of any witness on his examination, cross-examination, or re-examination producing any book, document, letter, paper, or writing, and refusing for good cause to be stated in his deposition to part with the original thereof, then a copy thereof, or extract therefrom,

(*x*) See R. S. C. Ord. XXXVII. 6; App. J., No. 13. The commission will be sealed at the Central Office, or by the District Registrar, upon production of the order for the writ to issue. Upon issuing it, a fee of 1*l.* is payable: by an impressed stamp. The commission must be written on impressed paper, or must be produced at the Inland Revenue Office, Royal Courts of Justice, to be stamped: see Ord. as to S. C. Fees, 1884, Sched. No. 15; Ord. as to Fees, &c., July, 1884, p. 4. As to the execution of the commission, see Chitty's Forms, 321—323.

certified by the commissioners or commissioner present and acting to be a true and correct copy or extract, shall be annexed to the witness's deposition.

4. Each witness to be examined under this commission shall be examined on oath, affirmation, or otherwise in accordance with his religion by or before the commissioners or commissioner present at the examination.

5. If any one or more of the witnesses do not understand the English language (the interrogatories, cross-interrogatories, and *vivâ voce* questions, if any, being previously translated into the language with which he or they is or are conversant), then the examination shall be taken in English through the medium of an interpreter or interpreters to be nominated by the commissioners or commissioner present at the examination, and to be previously sworn according to his or their several religions by or before the said commissioners or commissioner truly to interpret the questions to be put to the witness and his answers thereto.

6. The depositions to be taken under this commission shall be subscribed by the witness or witnesses, and by the commissioners or commissioner who shall have taken the depositions.

7. The interrogatories, cross-interrogatories, and depositions, together with any documents referred to therein, or certified copies thereof or extracts therefrom, shall be sent to the Senior Master of the Supreme Court of Judicature on or before the —— day of ——, enclosed in a cover under the seals or seal of the commissioners or commissioner.

8. Before you or any of you in any manner act in the execution hereof you shall severally take the oath hereon indorsed on the Holy Evangelists or otherwise in such other manner as is sanctioned by the form of your several religions and is considered by you respectively to be binding on your respective consciences. In the absence of any other commissioner, a commissioner may himself take the oath (*y*).

And we give you or any one of you authority to administer such oath to the other or others of you.

Witness, (*&c. : Conclude as in* Form 196) (*z*).

---

720. Indorsement on commission. [Dan. Pr. 648.]

(*Same as* Form 3 *or* 4.)

721. Oath to be administered to witness (*a*). [Dan. Pr. 648.]

You are true answer to make to all such questions as shall be asked you, without favour or affection to either party, and therein you shall speak the truth, the whole truth, and nothing but the truth. So help you God.

(*y*) See *Wilson* v. *De Coulon*, 22 Ch. D. 841 : 31 W. R. 839.

(*z*) As to date and teste, see R. S. C. Ord. II. 8.

(*a*) See R. S. C. App. J., No. 13.

722.
Oath to be taken by commissioner (*a*). [Dan. Pr. 648.]

You [*or*, I] shall, according to the best of your [*or*, my] skill and knowledge, truly and faithfully, and without partiality to any or either of the parties in this cause, take the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the commission within written. So help you [*or*, me] God.

723.
Oath to be taken by interpreter (*a*). [Dan. Pr. 648.]

You shall truly and faithfully, and without partiality to any or either of the parties in this cause, and to the best of your ability, interpret and translate the oath or oaths, affirmation or affirmations which he shall administer to, and all and every the questions which shall be exhibited or put to, all and every witness and witnesses produced before and examined by the commissioners named in the commission within written, as far forth as you are directed and employed by the said commissioners to interpret and translate the same out of the English into the language of such witness or witnesses, and also in like manner to interpret and translate the respective depositions taken and made to such questions out of the language of such witness or witnesses into the English language. So help you God.

724.
Oath to be taken by clerk (*a*). [Dan. Pr. 648.]

You shall truly, faithfully and without partiality to any or either of the parties in this cause, take, write down, transcribe, and engross all and every the questions which shall be exhibited or put to all and every witness and witnesses, and also the depositions of all and every such witness and witnesses produced before and examined by the said Commissioners named in the commission within written, as far forth as you are directed and employed by the commissioners to take, write down, transcribe or engross the said questions and depositions. So help you God.

725.
Direction of interrogatories, &c., when returned by the commissioners (*a*).

The Senior Master of the Supreme Court of Judicature, Royal Courts of Justice, London.

726.
Interrogatories for the examination of witnesses under a commission (*b*). [Dan. Pr. 649.]

(*Title and reference to the record.*)

Interrogatories [*or*, Cross-interrogatories] to be exhibited on the part of the above-named plaintiff [*or as may be*] to witnesses to be produced, sworn, and examined on the part of the above-named plaintiff [*or as may be*] before —— and ——, commissioners appointed to take such examination, by the commission issued in this action dated the —— day of ——, 188—.

1. Do you know the parties, plaintiff and defendant, above named, or

(*a*) See R. S. C. App. J., No. 13.
(*b*) See Form 719; Gresley, 547—558; see also Chitty's Forms, 319—321.

either and which of them, and how long have you known them respectively, or such one of them as you do know?

2. (*Here should follow distinct interrogatories, according to the subject-*
3. *matter, or the witnesses to be examined. Each interrogatory should*
4. *conclude thus:* Declare the truth of the several matters in this interrogatory inquired after, according to the best of your knowledge, remembrance, and belief.)

Last Interrogatory.—Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the plaintiff [*or as may be*] in this action, or which may be material to the subject of this your examination or to the matters in question in this action? If yea, set forth the same, and all the circumstances and particulars thereof, fully and at large, according to the best of your knowledge, remembrance, and belief, as if you had been thereto particularly interrogated, together with your reasons at large.

727. Notice of time and place for taking examination and of names, &c., of witnesses. [Dan. Pr. 649.]

(*Title and reference to the record.*)

Take notice that I shall attend at (*State where*) on —— day, the —— day of ——, 188—, at —— of the clock in the ——noon, for the purpose of taking the examination of the witnesses whose names, addresses, and descriptions are stated in the schedule hereto, on the part of the plaintiff [*or as may be*], by virtue of the commission issued in this action, and dated the —— day of ——, 188—.

THE SCHEDULE.

Name.	Address.	Description.

Dated this —— day of ——, 188—.

Yours, &c.

X. Y.,

Plaintiff's [*or*, Defendant's] commissioner.

To Mr. T. Z.,

Defendant's [*or*, Plaintiff's] commissioner.

728. Return of commissioners to be indorsed on commission (*c*). [Dan. Pr. 652.]

The execution of this commission appears in the schedules hereto annexed.

G. H. }
J. K. } Commissioners.

(*c*) This return must be indorsed on the commission and signed by the acting commissioners. The several documents should be annexed to the commission in

729.

Certificate of commissioners. [Dan. Pr. 652.]

(*Title and reference to the record.*)

To Her Majesty's High Court of Justice in England. –

We whose names and seals are hereunto subscribed, being (two of) the commissioners named in the commission hereunto annexed, do humbly certify as follows :

1. We did, on the —— day of ——, 188—, at ——, in the (Kingdom) of —— (*Here give a clear and accurate statement, following the language of the writ, of the course of proceeding actually pursued. The names and addresses of the witnesses examined should be set out, and their examination should be referred to as annexed to the return*).

In testimony whereof we have hereunto set our hands and seals this —— day of ——, 188—.

G. H. (L. S.) }
J. K. (L. S.) } Commissioners.

(C.) *Examination by Letters of Request.*

729 a.

Notice of motion or summons for letter of request to examine witnesses to issue (*cc*).

Formal parts : see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that a letter of request do issue directed to the proper tribunal for the examination of the following witnesses, that is to say, E. F., of (*address and description*), G. H., of (*address and description*), and I. J., of (*address and description*) ; and that the depositions taken pursuant thereto, when received, may be filed at the Central Office, and be given in evidence on the trial of this action, saving all just exceptions.

729 b.

Letter of request to examine witnesses (*ccc*).

Whereas an action is now pending in the Chancery Division of the High Court of Justice in England, in which A. B. is plaintiff and C. D. is defendant. And in the said action the plaintiff claims (*Set out the claim as indorsed upon the writ of summons*).

And whereas it has been represented to the said Court that it is necessary for the purposes of justice and for the due determination of the matters in dispute between the parties, that the following persons should be examined as witnesses upon oath touching such matters, that is to say : E. F., of (*address and description*), G. H., of (*address and description*), and I. J., of (*address and description*).

the following order : (1.) The commission ; (2.) The certificate ; (3.) The depositions ; and should be closed up and sealed by the acting commissioners, and transmitted by them to the senior Master of the Supreme Court of Judicature, Royal Courts of Justice : see Form 719.

(*cc*) See R. S. C. Ord. XXXVII. 6*a* ; R. S. C. Oct. 1884, 6 ; note (*b*), at p. 283. For form of order, see R. S. C. App. K., No. 37*a* ; R. S. C. Oct. 1884, No. 1.

(*ccc*) See R. S. C. App. K., No. 37*b* ; R. S. C. Oct. 1884, App. No. 2.

And it appearing that such witnesses are resident within the jurisdiction of your honourable Court.

Now I ——, as the President of the said Chancery Division of the High Court of Justice have the honour to request, and do hereby request, that for the reasons aforesaid and for the assistance of the High Court of Justice, you as the President and Judges of the said (*describe the Court in which the witnesses are to be examined*), or some one or more of you, will be pleased to summon the said witnesses (and such other witnesses as the agents of the said plaintiff and defendant shall humbly request you in writing so to summon) to attend at such time and place as you shall appoint before some one or more of you, or such other person as according to the procedure of your Court is competent to take the examination of witnesses, and that you will cause such witnesses to be examined upon the interrogatories which accompany this letter of request (or *vivâ voce*) touching the said matters in question in the presence of the agents of the plaintiff and defendant, or such of them as shall, on due notice given, attend such examination.

And I further have the honour to request that you will be pleased to cause the answers of the said witnesses to be reduced into writing, and all books, letters, papers, and documents produced upon such examination to be duly marked for identification, and that you will be further pleased to authenticate such examination by the seal of your tribunal, or in such other way as is in accordance with your procedure, and to return the same, together with such request in writing, if any, for the examination of other witnesses, through Her Majesty's Secretary of State for Foreign Affairs, for transmission to the said High Court of Justice in England.

(2.) *Translating Depositions taken by an Examiner or Commissioners.*

730. Motion paper for appointment of translator of depositions. [Dan. Pr. 651.]

Formal parts: see Form 36.

To move on behalf of the plaintiff [*or*, defendant A. B.], that C. D., of (*residence and addition*), may be appointed to translate into English the depositions which have been taken in the French language, under the order in this action, dated the ——, 188—, by G. M., one of the examiners of this Court, [*or*, E. F., the special examiner thereby appointed—*or*, G. H. and J. K., commissioners thereby appointed]; and be sworn to the truth of such translation; and that such translation may be annexed to, and filed with, the said depositions.

---

731. Petition of course for the like. [Dan. Pr. 651.]

Formal parts: see Form 39.

The humble petition of the plaintiff [*or*, defendant A. B.].

Showeth as follows:

1. Pursuant to an order made in this action dated the ——, 188—, witnesses have been examined *vivâ voce* before G. M., one of the

examiners of this Court [*or*, E. F., the special examiner thereby appointed —*or* G. H. and J. K., commissioners thereby appointed].

2. The depositions of the said witnesses have been taken in the (French) language.

Your petitioner therefore humbly prays, that C. D., of (*residence and addition*), may be appointed to translate the said depositions into English, and be sworn to the truth thereof; and that such translation may be annexed to, and filed with, the said depositions.

732. Verification of a translation of the depositions into English. [Dan. Pr. 651, 652.]

To the Deponent: Is that your name and handwriting?

You do swear that you well understand the French language [*or other language in which the depositions are written*]; and that the above-written is a true translation into the English language of the depositions in the French [*or as may be*] language thereunto annexed—So help you God.

C. D. C. D., of (*residence and addition; as:* No. 90, Cornhill, in the City of London, Notary Public), was sworn at (*State where, and when, as in* Form 6), that the above-written is a true translation into the English language of the depositions in the French [*or as may be*] language thereunto annexed, and affixed together at the top thereof, under the (notarial) seal of the said C. D., with his name thereto subscribed,

before me,

E. F. (*&c.: see* Form 9).

(3.) *Compelling the Attendance of Witnesses (d).*

The Subpœna (e).

(e) *Subpœna.—Summary of Material Provisions of R. S. C.* 1883.

ORDER.

Form of præcipe.—A *præcipe*, in the prescribed form (App. G. No. 21), containing the name or firm, *&c.*, of the solicitor intending to sue out the same, must be filed at the Central Office XXXVII. 26.

Form of writ of subpœna.—A writ of subpœna must be in the prescribed form. (App. J. Nos. 1—7) . . . . . ,, 27.

Number of names in a subpœna.—Every *subpœna*, other than

(d) *Compelling the attendance of witnesses.—Where witness is within the jurisdiction.*—Attendance to be examined, whether in Court, or before an examiner or commissioner, is compelled by *subpœna ad testificandum:* R. S. C. Ord. XXXVII. 20.

Where witness is out of the jurisdiction.—Attendance may be compelled by a writ of *subpœna ad testificandum* issued under 17 & 18 Vict. c. 34, where the witness is resident in Scotland or Ireland. Where the witness is resident in any of Her Majesty's foreign dominions, the Court having jurisdiction in the place where he is, may compel his attendance either before such Court, or before an examiner or commissioner: 13 Geo. III. c. 3, s. 40; 1 Wm. IV. c. 22, s. 2; 22 Vict. c. 20: see Chitty's Arch. 316—331.

ORDER.

a *subpœna duces tecum*, must contain three names where necessary or required, but may contain more; a *subpœna duces tecum* cannot contain more than three names, and the party suing out the same may sue out a *subpœna* for each person, if necessary or desirable . . . . . XXXVII. 29, 30.

Correction of errors.—Between suing out and service of a *subpœna*, errors therein in the names of parties or witnesses may be corrected, and the writ resealed, upon leaving a corrected *præcipe* marked "altered and resealed," and signed with the name and address of the solicitor . . . . . ,, 31.

Service.—Is effected by delivering a copy, and at same time producing the original writ . . . . . ,, 32.

Affidavits of service of a *subpœna* must state when, where, and how, and by whom, service was effected . . . . . ,, 33.

A *subpœna* must be served within *twelve weeks* from the teste of the writ . . . . . ,, 34.

Enforcing attendance before an examiner, &c.—This may be effected by *subpœna* . . . . . ,, 20.

Subpœna for attendance of a witness in chambers.—Such *subpœna* will issue upon a note from the Judge . . . . . ,, 28.

733.

Præcipe for *subpœna ad testificandum* (*f*). [Dan. Pr. 642.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. and C. D. . . Plaintiffs,
and
E. F., G. H., and J. K. . Defendants.

Seal writ of *subpœna ad testificandum* on behalf of the plaintiff [*or*, defendant], directed to (*Insert name or names of witness or witnesses*); returnable the ——.

Dated the —— day of ——, 188—.

(*Name, &c., of solicitor or party issuing the subpœna*).

734.

Subpœna ad testificandum before an examiner or referee (*f*). [Dan. Pr. 642.]

(*Title and reference to the record.*)

Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland Queen, defender of the Faith, To (*Insert the names of the witnesses* (*gg*)), greeting: We command you to attend before

(*f*) See R. S. C. Ord. XXXVII. 26; App. G., No. 21; and note (*e*), *supra*. A *subpœna ad testificandum* may be issued at any stage of an action without leave: *Raymond* v. *Tapson*, 22 Ch. D. 430: 31 W. R. 394.

(*g*) See R. S. C. Ord. XXXVII. 27; App. J., No. 1; and note (*e*), *supra*. On issuing the writ a fee of 5*s*. (if not more than three witnesses in the writ) is payable: by a stamp impressed on the *præcipe*: Ord. as to S. C. Fees, 1884, Sched. No. 5; Ord. as to Fees, &c., July, 1884, p. 4. A like fee of 5*s*. is payable for every additional three witnesses, or any less number beyond the first three: Add. Rules of Pr. Masters, March, 1884.

(*gg*) As to the number of witnesses, see R. S. C. Ord. XXXVII. 29; and note (*e*) *supra*.

(*State whom, as thus:* G. M., Esquire, one of the examiners of witnesses in our High Court of Justice; *or*,

E. F., Esquire, the examiner specially appointed for the examination of witnesses in the above action; *or*,

G. H., Esquire, one of the official referees of our High Court of Justice; *or*,

J. K., Esquire, a referee specially appointed in the above action);

at (*State where, as thus:* his Chambers, situate at No. 10, Old Square, Lincoln's Inn, in the County of Middlesex;

or, at the Red Lion Hotel, Devizes, in the County of Wilts);

on ——day the —— day of ——, 188—, at the hour of —— in the ——noon, and so from day to day until the above cause is tried,

or, if the subpœna requires the attendance of the witnesses before an examiner, or referee, until your evidence shall have been taken,

to give evidence on behalf of the plaintiff [*or*, defendant].

Witness, Roundell, Earl of Selborne, Lord High Chancellor of Great Britain, the —— day of ——, in the year of our Lord one thousand eight hundred and ——.

735.

Subpœna ad testificandum at sittings of High Court (*h*).

[Dan. Pr. 642, 692.]

(*Title and reference to the record.*)

Victoria (*&c.: as in* Form 734), To (*Insert the names of the witness or witnesses*), greeting: We command you to attend at the Royal Courts of Justice, Strand, London, at the sittings of the Chancery Division of our High Court of Justice, to be holden on —— day the —— day of —— 188—, at the hour of —— in the —— noon, and so from day to day during the said sittings, until the above cause is tried, to give evidence on behalf of the plaintiffs [*or as may be*].

Witness (*&c.: as in* Form 734) (*h*).

736.

Subpœna ad testificandum at assizes (*i*).

[Dan. Pr. 642, 692, 734.]

(*Title and reference to the record.*)

Victoria (*&c.: as in* Form 734), To (*Insert the names of the witness or witnesses*), greeting: We command you to attend before our justices assigned to take the assizes in and for the county of —— to be holden at —— on —— day the —— day of —— 188—, at the hour of —— in the —— noon, and so from day to day during the said assizes, until the above cause is tried, to give evidence on behalf of the plaintiff [*or as may be*].

Witness (*&c.: as in* Form 734).

(*h*) See R. S. C. Ord. XXXVII. 27; App. J., No. 6; and notes (*e*), (*g*), and (*gg*), *supra*.

(*i*) See R. S. C. Ord. XXXVII. 27; App. J., No. 4; and notes (*e*), (*g*), and (*gg*), *supra*.

(*Same as* Form 3 *or* 4.)

736 a. Indorsement on *subpœna*. [Dan. Pr. 642.]

(*Short title and reference to the record.*)

Take notice that your attendance under the accompanying *subpœna* [*or*, under the *subpœna* served on you on the —— day of ——, 188—] in this action is required at the place therein mentioned [*or*, at the Court of the Honourable Mr. Justice ——, Royal Courts of Justice, Strand—*or as may be*] on ——day the —— day of ——, 188—, at —— of the clock in the —— noon [*If so:* and so from day to day until this action is tried—*or*, until your evidence in this action shall have been taken—*or as may be*].

Dated (*&c.: Conclude as in* Form 37).

737. Notice to witness of time when attendance required. [Dan. Pr. 642.]

Formal parts: see Form 36.

To move on behalf of the plaintiffs [*or*, of the defendant ——], that a writ of *subpœna ad testificandum* may be ordered to issue commanding X. Y., of (*address*), in that part of the United Kingdom called Scotland [*or*, Ireland], to attend the trial of this action wherever he shall be in the United Kingdom, as a witness on the part of the plaintiffs [*or*, of the defendant ——].

738. Motion paper for order for *subpœna ad testificandum* to issue to compel attendance in England of witness in Scotland or Ireland (*j*).

Formal parts: see Form 6.

1. (*Show the state of the action; as thus:* Issue was joined in this action on the —— day of ——, 188—, and notice of trial of this action [*or*, of the questions or issues of fact in this action] has been given for the —— day of ——, 188—).

739. Affidavit in support (*k*).

(*j*) By 17 & 18 Vict. c. 34 (amended by Sup. Cot. Jud. Act, 1884, 47 & 48 Vict. c. 61, s. 16), and 36 & 37 Vict. c. 66, s. 76, the Court may order a writ of *subpœna ad test.* to issue in special form, commanding a witness, not within the jurisdiction of the Court, to attend the trial of the action wherever he shall be within the United Kingdom, and the service of such writ in any part of the United Kingdom is made as valid and effectual as if it had been served within the jurisdiction of the Court. The writ may not issue without a special order, and must have a notice at the foot thereof that it was issued by special order: 17 & 18 Vict. c. 34, s. 2. Disobedience to the writ may be certified to the Court having jurisdiction in the place where the witness is, and may be punished by such Court: s. 3. The application is *ex parte:* Chitty's Forms, 331, 332. For form of order, see 2 Seton, 1634, No. 1. Where an order has been made referring an action and all matters in difference between the parties to a referee, such reference is not a "trial" within 17 & 18 Vict. c. 34: *Hall* v. *Brand*, 12 Q. B. D. 39: 32 W. R. 133.

(*k*) For this form, see Chitty's Forms, 331, 332.

2. X. Y., who is at present residing at ——, in that part of the United Kingdom called Scotland [*or*, Ireland], is a material and necessary witness for the plaintiffs [*or*, for the defendant C. D.] on the trial of this action [*or*, has made an affidavit in this action on behalf of the plaintiffs—*or*, of the defendant C. D., and notice has been given requiring the production of the said X. Y. for cross-examination upon the said affidavit before the Court at the trial of this action].

3. The personal attendance of the said X. Y. on the trial of this action is required only for the purposes of this action as a witness on the behalf of the plaintiffs [*or*, of the defendant C. D.], and for no other purpose.

740.
Præcipe for *subpœna* in like case.

(*Same as* Form 733, *but the date of the order directing the writ to issue must be inserted.*)

741.
The *subpœna*.

Formal parts: as in Form 734.
Victoria (*&c.: as in* Form 734).
To X. Y., greeting.
We command you to attend, wherever you shall be in our United Kingdom, before (*Proceed as in* Form 734, 735, *or* 736, *to end, and at the foot of the writ add the following notice*).
Notice.—Take notice that this writ was ordered to be issued by an order of Her Majesty's High Court of Justice, dated —— day of ——, 188—, pursuant to the statute of the 17th and 18th of Victoria, chapter 34 (*l*).

742.
Indorsement on *subpœna*.

(*Same as* Form 3 *or* 4.)

743.
Notice to witness of time for attendance.

(*Same as* Form 737.)

744.
Motion paper for *habeas corpus ad testificandum* to compel attendance of a witness in custody (*m*). [Dan. Pr. 645.]

Formal parts: see Form 36.
To move on behalf of the plaintiffs [*or*, of the defendant E. F.—*or as may be*], that a *habeas* may issue directed to the Governor of the Holloway Prison [*or as may be*], to bring X. Y. before (*State whom; as in* Form 734, 735, *or* 736) to be examined as a witness for the plaintiffs [*or as may be*] at the trial of this action [*or*, at the trial of the questions or issues of fact in this action—*or*, to be examined—*or*, cross-examined —in this action], so long as his attendance as a witness shall be required.

(*l*) See 17 & 18 Vict. c. 34, s. 2; note (*j*) to Form 738.
(*m*) See 44 Geo. III. c. 102. For form of order, see 2 Seton, 1634, No. 2.

Or, to be cross-examined on his affidavit, filed in this action on the —— day of ——, 188—: notice having been given requiring his production for that purpose.

An affidavit in support and the Governor's certificate of custody accompany.

745.
Petition of course for the like.
[Dan. Pr. 645.]

Formal parts: see Form 39.

The humble petition of the plaintiffs [*or as may be*].

Showeth as follows:

1. *Show the state of the action; see paragraph* 1 *of* Form 739.

2. X. Y., now a prisoner in the Holloway Prison [*or as may be*], is a material and necessary witness in this action for your petitioners [*or*, has made an affidavit in this action on behalf of your petitioners, and notice has been given requiring the production of the said X. Y. for cross-examination upon the said affidavit before the Court at the trial of this action—*or as may be*].

3. By reason of the said X. Y. being a prisoner, your petitioners are unable to procure his attendance as a witness in this action.

Your petitioners therefore humbly pray, that a writ of *habeas corpus* may issue directed to the Governor of the said prison to bring the said X. Y. before (*State whom; as in* Form 734, 735, *or* 736), to be examined as a witness for your petitioners at the trial of this action [*or*, at the trial of the questions or issues of fact in this action—*or*, to be examined—*or*, cross-examined in this action], so long as his attendance as a witness shall be required.

746.
Affidavit in support of motion or petition.
[Dan. Pr. 645.]

Formal parts: see Form 6.

1. (*Show the state of the action; see paragraph* 1 *of* Form 739.)

2. X. Y. is a material and necessary witness (*Continue as in paragraph* 2 *of* Form 745, *substituting* plaintiffs [*or as may be*] *for* petitioners).

3. (*Show means of knowledge.*)

747.
Præcipe for the writ (*n*).
[Dan. Pr. 645.]

(*Title and reference to the record.*)

Seal, in pursuance of order dated the —— day of ——, 188—, a writ of *habeas corpus ad testificandum* directed to the Governor of the Holloway Prison [*or as may be*], to bring X. Y. before (*State whom; as in order*), on the trial of this action [*or as may be; as in order*].

Dated —— day of ——, 188—.

(*Name, &c., of solicitor or party issuing writ.*)

(*n*) See R. S. C. Ord. XXXVII. 26; App. G., No. 16; and note (*e*), *supra*.

748.

Writ of *habeas corpus ad testificandum* (*o*).

[Dan. Pr. 645.]

(*Title and reference to the record.*)

Victoria (*&c.; as in* Form 734).

To the Governor of our prison at Holloway [*or as may be*], greeting: We command you that you bring X. Y., who it is said is detained in our prison under your custody, before (*State whom; as in order*) at (*State where; as in* Form 734, 735, *or* 736) on ——day, the —— day of ——, 188—, at the hour of —— in the —— noon,

If the witness is to be examined on the trial of the action, or of any question or issue therein, add: and so from day to day until the above action is tried.

If the witness is to be examined before an examiner, add: and on such other days as the said examiner shall appoint,

to give evidence on behalf of the plaintiff [*or as may be*]. And that immediately after the said X. Y. shall have so given his evidence you safely conduct him to the prison from which he shall have been brought.

Witness (*&c.; as in* Form 734).

749.

Indorsement on the writ.

(*Same as* Form 3 *or* 4.)

750.

Præcipe for *subpœna duces tecum* (*p*).

[Dan. Pr. 641, 692.]

Formal parts: see Form 733.

Seal writ of *subpœna duces tecum* on behalf of the plaintiff [*or*, defendant], directed to (*Insert the names of the witness or witnesses*); returnable the ——.

751

Subpœna duces tecum before an examiner or referee (*q*).

[Dan. Pr. 641, 692.]

(*Same as* Form 734, *adding, before the teste, the words following:* and also to bring with you and produce at the time and place aforesaid (*Here specify concisely* (*r*) *the documents to be produced, as thus:* a deed of covenant dated 1st January, 1876, made between A. B. and C. D. of the first part, E. F. of the second part, and G. H. of the third part; an

(*o*) See R. S. C. App. J., No. 2. On issuing the writ a fee of 5*s.* is payable: by a stamp impressed on the *præcipe:* Ord. as to S. C. Fees, 1884, Sched. No. 5; Ord. as to Fees, &c., July, 1884, p. 4. On issuing it, the order for the writ to issue must be produced to the officer issuing it. The writ when issued is left with the officer in whose custody the witness is, and his reasonable charges for bringing up the witness must be paid or tendered to him: Chitty's Forms, 333, note (*a*). Where a party is brought up to attend the trial or hearing of a cause or matter by virtue of any writ of *habeas corpus* duly issued from the Central Office, and the trial or hearing is postponed to a future day, a new writ of *habeas corpus* may be issued for such future day, if the Court or a judge shall so direct, without payment of any fee: see R. S. C. Ord. XXXVI. 35; 2 Seton, 1574.

(*p*) See R. S. C. Ord. XXXVII. 26; App. G., No. 21; and note (*e*), *supra*.

(*q*) See R. S. C. Ord. XXXVII. 27; App. J., No. 3; and note (*e*), *supra*.

(*r*) As to the degree of particularity with which the documents must be described see *A. G.* v. *Wilson*, 9 Sim. 526; *Newland* v. *Steer*, 11 Jur. N. S. 596; 13 W. R. 1014; *Lee* v. *Angus*, L. R. 2 Eq. 59,

indenture of lease from A. B. and C. D. to E. F. and G. H., dated 1st February, 1876; an indenture of release between A. B. and C. D. of the first part, &c., dated the 2nd February, 1876; and a bill of exchange dated 1st May, 1878, for £1000, at three months, drawn by A. B. on and accepted by C. D., indorsed by E. F. and G. H.)

752

Subpœna duces tecum at sittings of the High Court (*s*).

[Dan. Pr. 641, 692.]

(*Same as* Form 735, *adding, before the teste, the words following:* and also to bring with you and produce at the time and place aforesaid—*Here specify the documents to be produced: see* Form 751).

753.

Subpœna duces tecum at assizes (*t*).

[Dan. Pr. 641, 692, 734.]

(*Same as* Form 736, *adding, before the teste, the words following:* and also to bring with you and produce at the time and place aforesaid—*Here specify the documents to be produced: see* Form 751.)

754.

Indorsement on *subpœna.*

(*Same as* Form 3 *or* 4.)

755.

Notice to witness of time when attendance required.

(*Same as* Form 737.)

756.

Motion paper for order for *subpœna duces tecum* to issue to compel attendance in England of witness in Scotland or Ireland (*u*).

(*Same as* Form 738, *adding the words* "and *duces tecum*," *after the words* "*subpœna ad testificandum.*")

757.

Affidavit in support.

Formal parts: see Form 6.

1. *Show the state of the action, as in paragraph* 1 *of* Form 739.

2. X. Y., who is at present residing at ——, in that part of the United Kingdom called Scotland [*or*, Ireland], is in possession of documents relating to the matters in question in this action, and which it is material and necessary for the plaintiffs [*or*, the defendant E. F.; *or as may be*] to have produced upon the trial of this action.

3. (*Same as paragraph* 3 *of* Form 739.)

(*s*) See R. S. C. Ord. XXXVII. 27; App. J., No. 7; and note (*c*), *supra.*

(*t*) See R. S. C. Ord. XXXVII. 27; App. J., No. 5; and note (*e*), *supra.*

(*u*) See 17 & 18 Vict. c. 34 (as amended by 47 & 48 Vict. c. 61, s. 16); 36 & 37 Vict. c. 66, s. 76; note (*j*) to Form 738.

758.

Præcipe for *subpœna.*

(*Same as* Form 733, *adding the words* "and *duces tecum*" *after the words* "*subpœna ad testificandum*," *and adding also the date of the order for the writ to issue.*)

759.

The *subpœna.*

(*Same as* Form 741, *adding, before the teste, the words following:* and also to bring with you and produce at the time and place aforesaid—*Here specify the documents to be produced: see* Form 751.)

760.

Indorsement on *subpœna.*

(*Same as* Form 3 *or* 4.)

761.

Notice to witness of time when attendance required. [Dan. Pr. 642.]

(*Same as* Form 737.)

762.

Calling a witness on his *subpœna.* [Dan. Pr. 645, 692.]

X. Y.—Come forth and give your evidence in an action wherein A. B. is plaintiff [*or*, A. B. and another [*or*, others] are plaintiffs], and C. D. is defendant [*or*, C. D. and another [*or*, others] are defendants] pursuant to your *subpœna.*

763.

Indorsement on *subpœna* of non-appearance of witness. [Dan. Pr. 692.]

The witness named X. Y. was called three times in open Court to give evidence on his *subpœna*, and did not appear.

Dated —— day of ——, 188—.

P. Q.,

Registrar [*or as may be*].

764.

Examiner's certificate of non-attendance of witness, or of his refusal to be sworn (*r*). Dan. Pr. 643.]

(*Title and reference to the record.*)

I certify that an appointment was made with me for the —— day of ——, inst., to take the examination of witnesses in this action, and that no person of the name and description of X. Y., of (*address and description*), attended to be examined before me on that day [*or*, and that X. Y., of (*address and description*), attended before me on that day, but refused to be sworn and examined as a witness in this action].

Dated this —— day of ——, 188—.

G. M.,

Examiner.

(*r*) See R. S. C. Ord. XXXVII. 13; and note (*b*), at p. 283. The certificate must be filed at the Central Office.

765.
Examiner's certificate of non-attendance of witness, or of his refusal to produce documents (*w*).

Formal parts: as in Form 764.

I certify that an appointment was made with me for the —— day of —— inst., to take the examination of witnesses in this action, and that no person of the name and description of X. Y., of (*address and description*), attended to be examined before me on that day [*or*, and that X. Y., of (*address and description*), attended before me on that day, but refused to produce the documents mentioned in his *subpœna*, or any of them].

766.
Affidavit of service of *subpœna* and notice. [Dan. Pr. 643.

Formal parts: see Form 6.

1. On the —— day of ——, 188—, I served X. Y., the person named in the *subpœna* next hereinafter mentioned, with a *subpœna* issuing out of, and under the seal of the Central Office of the Supreme Court of Judicature, by delivering to and leaving with the said X. Y., personally, at (*State where*), in the county of ——, a true copy of the said *subpœna*, and of the indorsement thereon; and I at the same time showed the said *subpœna*, so under seal as aforesaid, to the said X. Y.

2. By the said *subpœna* the said X. Y. was commanded to attend [*If so:* wherever he should be in the United Kingdom] before (*Recite subpœna down to, but exclusive of, the teste*).

If the subpœna was served in Scotland or Ireland, add:

3. There was at the foot of the said *subpœna* and of the said copy thereof respectively at the time I so showed and served the same as aforesaid, a Notice in the words and figures following (*Set out copy notice: see* Form 741).

If a notice of the time, or time and place, was also served, add:

4. At the time of the aforesaid service of the said *subpœna*, I delivered to and left with the said X. Y., a notice in writing intituled in this action, addressed to the said X. Y., and purporting that the said X. Y. was required to attend (*Recite the notice*).

767.
Notice of motion or summons that witness may be ordered to attend and be sworn and examined (*x*). [Dan. Pr. 643.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that X. Y., of (*address and description*), may be ordered to attend at his own expense before G. M., Esquire, one of the Examiners of this Honourable Court [*or*, the Examiner specially appointed to take the examination of witnesses in this action by order dated the —— day of ——, 188—], and be sworn and examined at such time and place as the said G. M. shall appoint; and that the said X. Y. may be ordered to pay the costs of and consequent upon this application.

768.
Motion paper for the like purpose (*x*). [Dan. Pr. 643.]

Formal parts: see Form 36.

To move on behalf of the plaintiff [*or as may be*] that (*Continue as in* Form 767 *to end*).

(*w*) See R. S. C. Ord. XXXVII. 13; and note (*b*), at p. 283.

(*x*) See R. S. C. Ord. XXXVII. 13, 15; and note (*b*), at p. 283. The application

(4.) *Oaths, Affirmations, and Declarations of Witnesses, examined viva voce* (*y*).

769. Ordinary form of oath where witness examined before the Court. [Dan. Pr. 692.]

To the Witness.—The evidence you shall give to the Court [*or*, to the Court and Jury], touching the matters in question, shall be the truth, the whole truth, and nothing but the truth—So help you God (*z*).

770. The like, where witness examined before an examiner (*a*). [Dan. Pr. 639.]

To the Witness.—You swear that you shall true answer make to all such questions as shall be asked you, without favour or affection to either party; and therein you shall speak the truth, the whole truth, and nothing but the truth—So help you God (*z*).

771. Oath of a Presbyterian under 1 & 2 Vict. c. 105, before the Court.

To be uttered by the Witness.—I, A. B., do solemnly and sincerely declare that (*State in what form, and with what ceremony, an oath will be binding: as:* holding up my right hand and swearing by Almighty God, and as I shall answer to Almighty God at the great day of judgment), is a form of oath that is most binding on my conscience; and I do (*Repeat the binding form; as:* swear by Almighty God, and as I shall answer to Almighty God at the great day of judgment), that the evidence I shall give to the Court [*or*, to the Court and jury], touching the matters in question, shall be the truth, the whole truth, and nothing but the truth.

772. The like—before an examiner.

To be uttered by the Witness.—I, A. B., do (*Proceed as in* Form 771, *down to* conscience; *and add:* and I do swear—*Repeat the binding form; as:* by Almighty God, and as I shall answer to Almighty God at the great day of judgment), that I shall true answer make to all such questions as shall be asked me, without favour or affection to either party; and therein I shall speak the truth, the whole truth, and nothing but the truth.

773. Affirmation by a Quaker or Moravian before the Court (*b*).

To be uttered by the Witness.—I, A. B., being one of the people called Quakers [*or*, one of the persuasion of the people called Quakers—*or*, one

must be supported by an affidavit of due service of the *subpœna* and notice, and by production of an office copy of the examiner's certificate of non-attendance. For another form of summons where the witness has objected to a question, see Form 794; and see *Stuart* v. *Balkis Co.*, W. N. (1884), 122: 32 W. R. 676.

(*y*) When the examination takes place in Court in the Chancery Division, the witnesses are called by the usher, and sworn by the Registrar; when the examination takes place before a commissioner or examiner, the witnesses are sworn by the commissioner or examiner.

(*z*) If the witness is a Jew, the oath should conclude with the words, "So help you Jehovah."

(*a*) Braithwaite's Oaths in the Supreme Court of Judicature, 95.

(*b*) See 3 & 4 W. IV. c. 49.

of the United Brethren called Moravians], do solemnly, sincerely, and truly declare and affirm, that the evidence I shall give to the Court [*or*, to the Court and jury], touching the matters in question, shall be the truth, the whole truth, and nothing but the truth.

---

774. The like—before an examiner (*bb*).

To be uttered by the Witness.—I, A. B., being (*Proceed as in* Form 773, *down to* affirm; *and add:*) that I shall true answer make to all such questions as shall be asked me, without favour or affection to either party; and therein I shall speak the truth, the whole truth, and nothing but the truth.

---

775. Affirmation by an ex-Quaker or ex-Moravian before the Court (*c*).

To be uttered by the Witness.—I, A. B., having been one of the people called Quakers [*or*, one of the persuasion of the people called Quakers—*or*, of the United Brethren called Moravians], and entertaining conscientious objections to the taking of an oath, do solemnly, sincerely, and truly declare and affirm, that the evidence I shall give to the Court [*or*, to the Court and jury], touching the matters in question, shall be the truth, the whole truth, and nothing but the truth.

---

776. The like—before an examiner (*c*).

To be uttered by the Witness.—I, A. B., having been one of the people called Quakers [*or*, one of the persuasion of the people called Quakers—*or*, of the United Brethren called Moravians], and entertaining conscientious objections to the taking of an oath, do solemnly, sincerely, and truly declare and affirm, that I shall true answer make to all such questions as shall be asked me, without favour or affection to either party; and therein I shall speak the truth, the whole truth, and nothing but the truth.

---

777. Affirmation by a Separatist before the Court (*d*).

To be uttered by the Witness.—I, A. B., do, in the presence of Almighty God, solemnly, sincerely, and truly affirm and declare, that I am a member of the religious sect called Separatists, and that the taking of any oath is contrary to my religious belief, as well as essentially opposed to the tenets of that sect. And I do also, in the same solemn manner, affirm and declare, that the evidence I shall give to the Court [*or*, to the Court and jury] touching the matters in question, shall be the truth, the whole truth, and nothing but the truth.

---

778. The like—before an examiner (*d*).

To be uttered by the Witness.—I, A. B., do, in the presence of Almighty God, solemnly, sincerely, and truly affirm and declare, that I am a

(*bb*) See 3 & 4 W. IV. c. 49.
(*c*) See 1 & 2 Vict. c. 77.
(*d*) See 3 & 4 W. IV. c. 82.

member of the religious sect called Separatists, and that the taking of any oath is contrary to my religious belief, as well as essentially opposed to the tenets of that sect. And I do also, in the same solemn manner, affirm and declare, that I shall true answer make to all such questions as shall be asked me, without favour or affection to either party; and therein I shall speak the truth, the whole truth, and nothing but the truth.

779. Affirmation before the Court, where witness has a conscientious objection to take an oath (*e*).

To be uttered by the Witness.—I, A. B., do solemnly, sincerely, and truly affirm and declare, that the taking of any oath is, according to my religious belief, unlawful. And I do also solemnly, sincerely, and truly affirm and declare, that the evidence I shall give to the Court [*or*, to the Court and jury], touching the matters in question, shall be the truth, the whole truth, and nothing but the truth.

780. The like—before an examiner (*e*).

To be uttered by the Witness.—I, A. B., do solemnly, sincerely, and truly affirm and declare, that the taking of any oath is, according to my religious belief, unlawful. And I do also solemnly, sincerely, and truly affirm and declare, that I shall true answer make to all such questions as shall be asked me, without favour or affection to either party; and therein I shall speak the truth, the whole truth, and nothing but the truth.

781. Declaration under the Evidence Further Amendment Act, 1869 (*f*).

I solemnly promise and declare, that the evidence given by me to the Court shall be the truth, the whole truth, and nothing but the truth.

782. Oath of a Chinese (*g*).

To the Witness.—You shall tell the truth, and the whole truth: for the saucer is cracked; and if you do not tell the whole truth, your body is cracked like this saucer.

783. Oath of an interpreter of evidence.

To the Interpreter.—You shall well and truly interpret the oath that shall be administered, and the questions that shall be put, to the witness, as also the evidence that he shall give to the Court [*or*, to the Court and jury], touching the matters in question [*or*, as also the answers that he shall make to all such questions], to the best of your skill and knowledge—So help you God.

(*e*) See the C. L. P. Act, 1854 (17 & 18 Vict. c. 125), s. 20.

(*f*) 32 & 33 Vict. c. 68, s. 4; and see the Evidence Amendment Act, 1870, 33 & 34 Vict. c. 49.

(*g*) A china saucer is placed in the witness's hand, who throws it down and breaks it, and the interpreter then administers the oath: *R.* v. *Entrehman*, Car. & Marsh. 248.

Section V.—Examination of Witnesses De Bene Esse.

(*Dan. Pr.*, pp. 653—659.)

784. Motion paper for leave to examine a witness *de bene esse* (*h*).

Formal parts: see Form 36.

To move on behalf of the plaintiff [*or*, defendant A. B.], for leave to examine C. D., of (*residence and addition*), as a witness, *de bene esse*, saving all just exceptions: the said C. D. being upwards of seventy years old [*or*, dangerously ill—*or*, about to go abroad].

If a special examiner is necessary, add: and that E. F., of (*residence and addition*), may be appointed an examiner, to take such examination.

An affidavit in support accompanies.

785. Petition of course for the like (*i*).

Formal parts: see Form 39.

The humble petition of the plaintiff [*or*, defendant A. B.].

Showeth as follows:

1. *State the present position of the action.*

2. C. D., of (*Residence and addition*), is a material witness in this action for your petitioner: without whose testimony your petitioner cannot safely proceed to a trial of this action.

3. The said C. D. is upwards of seventy years old [*or*, dangerously ill—*or*, about to go abroad]; and your petitioner is desirous to examine him *de bene esse*.

Your petitioner therefore humbly prays, that he may be at liberty to examine the said C. D. as a witness on his behalf in this action *de bene esse:* saving all just exceptions [*If so:* and that E. F., of (*residence and addition*), may be appointed an examiner to take such examination].

786. Notice of motion or summons for leave to examine a witness *de bene esse* (*j*). [Dan. Pr. 655.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or*, defendant A. B.], that he may be at

(*h*) *Examination de bene esse.*—See R. S. C. Ord. XXXVII. 5. The order may be obtained *ex parte;* but the Court is not precluded from discharging such an order on the application of a party dissatisfied with it, if a case for doing so is made out: *Bidder* v. *Bridges*, 26 Ch. D. 1: 32 W. R. 445. In that case the Court refused to allow the examination *de bene esse* of a large number of witnesses merely on the ground that they were seventy years old and upwards. The order was allowed to stand as to witnesses of the age of seventy-five and upwards, upon an undertaking by the plaintiffs to examine such witnesses at the trial if alive and capable of giving evidence, and if so required by the defendant. In an ordinary case, however, the fact of a witness being seventy years of age is a good *primâ facie* ground for an order: see *per* Selborne, L. C., in *Bidder* v. *Bridges*, *ubi sup.*

(*i*) See note (*h*) to Form 784.

(*j*) For form of order, see 2 Seton, 1635, No. 7. It seems that, under the present practice, the application is usually made on notice, and not *ex parte*.

liberty to examine C. D., of (*residence and addition*), as a witness on his behalf in this action *de bene esse*: saving all just exceptions.

If a special examiner is necessary, add: and that E. F., of (*residence and addition*), may be appointed an examiner, to take such examination.

787.

Affidavit in support of motion, petition, or summons. [Dan. Pr. 655.]

Formal parts: see Form 6.

1. C. D., of (*residence and addition*), is, to the best of my belief, a material witness in this action for the plaintiff [*or*, defendant A. B.]. (*State the nature of the evidence which the witness can give.*)

2. The said C. D. is (*Show the special ground for the application; as thus:* upwards of seventy years of age [*or*, in a dangerous state of health—*or*, about to go out of the jurisdiction of this honourable Court—*or as may be*).

3. (*If a special examiner is necessary, show his fitness to be appointed: see* Form 703.)

4. (*Show means of knowledge* (*k*).)

788.

Notice of motion to discharge order to examine witnesses *de bene esse* (*l*). [Dan. Pr. 658.]

Formal parts: see Form 38.

on the part of the defendant [*or*, plaintiff], that the order made in this action, dated the —— day of ——, 188—, for the examination *de bene esse* of C. D., of (*residence and addition*), as a witness on behalf of the plaintiff [*or*, defendant], may be set aside, as having been made *ex parte* on insufficient evidence, and as being unnecessary for the purposes of justice [*or as may be*].

789.

Notice of intention to examine the witness. [Dan. Pr. 656.]

Formal parts: see Form 37.

Take notice that the plaintiff [*or*, defendant A. B.] intends to examine C. D., of (*Insert description of the witness*), as a witness on his behalf in this action *de bene esse*, under the order in this action, dated the —— day of ——, 188—, before G. M., Esq., one of the examiners of this Court [*or*, the examiner specially appointed for the purpose of taking such examination by order dated —— day of ——, 188—], at (*State where and when; as thus:* the chambers of the said examiner, situate at No. 10, Old Square, Lincoln's Inn, in the county of Middlesex), on —— day, the —— day of ——, 188—, at —— of the clock in the —— noon.

(*k*) "The deponent ought to state specifically what information as to the age of the witness he has received, and what means have been taken to inquire in the best quarters, upon that subject, and on what his belief is founded:" see *per* Selborne, L. C., in *Bidder* v. *Bridges*, 26 Ch. D. 1: 32 W. R. 445.

(*l*) See *Bidder* v. *Bridges*, *ubi supra*. The order in that case was varied on the merits, and the evidence on which it was obtained was held to be insufficient; but the Court expressly stated that an *ex parte* order was not irregular: see note (*a*) to Form 786.

790.
Formal parts of deposition of the witness.
[Dan. Pr. 656.]

(*Title and reference to the record.*)

Deposition of a witness examined *de bene esse*, pursuant to an order made in the above action dated the —— day of ——, 188—, at (*State where*),

before me,

G. M., one of the examiners of the Court [*or*, special examiner appointed by the said order—*or*, by order in this action dated the —— day of ——, 188—].

Sworn —— day of ——, 188—. } C. D., of (*residence and addition*), examined on behalf of the plaintiff [*or*, defendant A. B.], saith as follows:

(*For other formal parts, see* Form 711.)

791.
Notice of motion or summons for leave to use deposition taken *de bene esse* (*m*).
[Dan. Pr. 657.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or*, defendant A. B.], that he may be at liberty at the trial of this action to read and make use of the deposition of C. D., taken on his behalf *de bene esse*, and filed on the —— day of ——, 188—, under the order in this action dated the —— day of ——, 188—.

792.
Affidavit in support.

Formal parts: see Form 6.

1. (*State the position of the action, as in* Form 739.)

2. (*Show special grounds for the application; as thus:*) C. D., in the order in this action, dated the —— of ——, 188—, named, died on the —— day of —— last. He is the same person as C. D. named in the paper writing marked A. (*n*), now produced and shown to me (*Exhibit certificate of death or burial*), and purporting to be a copy of an entry in the Register Book of deaths [*or*, burials] kept for (*Describe the Register Book*).

3. (*Where the evidence in the action has been taken by affidavit, explain why the affidavit of the witness was not obtained in the ordinary course.*)

4. (*Show means of knowledge.*)

(*m*) This application will be unnecessary, if, as is now usual, the order to take the examination, includes liberty to use the depositions taken *de bene esse:* see 2 Seton, 1635, No. 7.

(*n*) For form of memorandum of exhibit, see Form 28.

Section VI.—Objections by Witnesses.

(*Dan. Pr.*, pp. 659—662, cccIxxviii.)

793.

Objection by a witness (*o*). [Dan. Pr. 661.]

(*Title and reference to the record.*)

Objection of a witness examined in the above action, before me,

G. M., examiner [*or*, special examiner appointed by order in this action, dated the ——, 188—].

Sworn —— day of ——, 188—. } X. Y., of (*residence and addition*), called on behalf of the plaintiff [*or as may be*].

Question :— } *Set forth the question or questions put, the objection of the witness thereto, and the examiner's opinion thereon: see* Form 711 (*p*).

X. Y.

I refer this matter to the Court.

G. M.

The evidence contained in this sheet of paper was taken by me, and was afterwards read over to the witness, and signed by him, in the presence of the parties attending.

G. M.

794.

Notice of motion that an objecting witness may again attend the examiner. [Dan. Pr. 661, 662.]

Formal parts: see Form 38.

on the part of the plaintiff [*or*, defendant], that X. Y., a witness sworn and examined in this action on behalf of the plaintiff [*or as may be*], on the —— of ——, 188—, before G. M., Esq., one of the examiners of this Court,

Or, the examiner specially appointed to take the examination of witnesses in this action,

may be ordered to attend at his own expense before the said examiner, at such time and place as the said examiner shall appoint, to be further examined as a witness for the plaintiff [*or as may be*] in this action; and that the said X. Y. may be ordered then and there to answer the question which he objected to answer upon his aforesaid examination, on the —— of ——, 188—; that is to say: (*State or set out the question*); and that the said X. Y. may be ordered to pay the costs of and occasioned by his said objection, and of this application.

(*o*) See R. S. C. Ord. XXXVII. 12—14; and note (*b*), at p. 283.

(*p*) The grounds of the witness's refusal to answer should be clearly stated: Dan. Pr. 661.

CHAPTER XIV.

MOTION FOR JUDGMENT (*a*).

(*Dan. Pr.*, pp. 663—668, ccclxxix.)

(*a*) *Motion for Judgment.—Summary of Material Provisions of R. S. C.* 1883.

	ORDER.
To what cases applicable.—Except where otherwise provided, the judgment of the Court must be obtained by motion for judgment	XL. 1.
A. *Where facts are not put in issue:*—	
(1.) On *default in appearance.*—In cases not within the provisions as to judgment of Ord. XIII. 3—11 .	XIII. 12.
(2.) On *default in pleading.*—In cases not within the provisions as to judgment of Ord. XXVII. 2—10, whether as between plaintiff and defendant, or as between parties other than plaintiff and defendant	XXVII. 11, 12, 14.
(If *no* pleadings are delivered judgment can be obtained on motion for judgment: see Dan. Pr. 663, 664; *Wilmott* v. *Young*, 29 W. R. 413; *Scott* v. *Padwick*, W. N. (1877), 13.)	
(3.) Where there are *admissions*, actual or implied, either on the pleadings or otherwise	XXXII. 6.
B. *Where facts are put in issue:*—	
Where issues directed and tried.—In such case, when *all* the issues directed have been tried, the plaintiff, or, on his default, the defendant, may set down a motion for judgment; where *some* only of the issues have been tried, any party who considers that the trial of the other issues is unnecessary or should be postponed, may apply for leave to set down a motion for judgment	XL. 7, 8.
C. *After trial:*—	
(1.) Where the Judge or Referee at the trial abstains from directing any judgment to be entered . .	,, 2.
(2.) Where, at or after a trial *with a jury*, the Judge has directed a judgment to be entered, and any party is dissatisfied with such judgment, on the ground that the finding of the jury has not been properly entered	,, 3.
(3.) Where, at or after a trial by a Judge, either *with or without a jury*, he has directed a judgment to be entered, and any party is dissatisfied with such judgment, as being wrongly directed . . .	,, 4.
The application in cases (2) and (3) *supra*, must be to the Court of Appeal, unless, after *a trial with a jury*, there is a motion for a new trial: when it must be to a Divisional Court	,, 5.
(4.) Where a Referee has directed any judgment to be entered, and any party is dissatisfied with such judgment as being wrongly directed . . .	,, 6.
Time to set down motion under Ord. XL., 2, 7.—By the plaintiff within *ten days* after the trial (r. 2), or after his right has arisen (r. 7); on his default, any defendant may set it down . .	,, 2, 7.

ORDER. XL. 9.

No motion for judgment can be set down, without special leave, *after the expiration of one year* from the time when the right accrued . . . . . .

Power of the Court on motion for judgment.—The Court may draw all inferences of fact, not inconsistent with the finding of the jury: and may, where necessary, direct the motion to stand over for further consideration, and direct issues or questions to be tried and determined, and accounts and inquiries to be taken and made . . . . . „ 10.

As to motion for judgment, see 2 Seton, 38—40; Wilson, 385, 386; Ann. Pr. 414—418; Chitty's Forms, 371—375.

(1.) *The Notice of Motion.*

795.

Notice of motion for judgment where no judgment entered (*b*). [Dan. Pr. 666.]

(*Title and reference to the record.*)

Take notice that this honourable Court will be moved before his lordship Mr. Justice ——, on —— day, the —— day of ——, 188—(*c*), or so soon thereafter as counsel can be heard, by counsel on the part of the plaintiff [*or*, of the defendant], for (*Here state the relief sought, which may be done thus:*

judgment for the relief claimed by the indorsement of claim on the writ of summons in this action (*d*); *or*,

such judgment or other order as upon the plaintiff's statement of claim in this action the Court may consider the plaintiff entitled to (*e*); *or*,

judgment dismissing this action with costs to be paid by the plaintiff; *or*,

judgment for the relief claimed by the counterclaim delivered in this action by the defendant, and also dismissing the plaintiff's claim with costs to be paid by the plaintiff; *or*,

judgment in the terms set forth in the schedule hereto).

If it is intended to mark the motion as "short," the following notice may be added (*f*): And take notice that this action will be marked as short, and that no further notice thereof will be given.

(*b*) See R. S. C. Ord. XL. 1; XIII. 12; XXVII. 11, 12, 14; XXXII. 6; and note (*a*), *supra*. The notice must be served before the motion is set down: 1 Seton, 39. The notice may be served by being delivered to the solicitor of the party, or to the party in person; and in the case of any party who has not appeared, it may be served by being filed at the Central Office, or with the District Registrar: R. S. C. Ord. XIX. 10; *Ibid.*, LXVII. 4; *Dymond* v. *Croft*, 3 Ch. D. 512; *Morton* v. *Miller*, 3 Ch. D. 516; 1 Seton, 39.

(*c*) There must be two clear days at least between the service of the notice and the day named in the notice for hearing the motion: R. S. C. Ord. LII. 5; *Daubney* v. *Shuttleworth*, 1 Exch. D. 53. The day named in the notice must be a day on which the Court is sitting: *Daubney* v. *Shuttleworth* (*ubi supra*); *Deykin* v. *Coleman*, 25 W. R. 294.

(*d*) This is applicable to a case where there are no pleadings.

(*e*) For forms of judgment in default of defence, see 1 Seton, 38, Nos. 2, 3. For form of judgment at the trial against some defendants, and on motion for judgment against others (R. S. C. Ord. XXVII. 12), see 1 Seton, 38, No. 4.

(*f*) It is advisable that notices of motion for judgment should, if it be intended to mark them "short," contain a statement to that effect, and also a statement

If leave has been obtained under R. S. C. Ord. XL. rule 8 *or rule* 9, *to serve the notice of motion and set down the motion for judgment, add:* And take also notice that special leave to serve this notice of motion and to set down the motion for judgment has been obtained from the honourable Mr. Justice ——.

Dated —— day of ——, 188—.

X. Y.,

Solicitor for the plaintiff [*or*, defendant].

To the defendant [*or*, plaintiff],

and to Mr. T. Z., his solicitor.

The affidavit of O. P. filed the —— day of ——, 188—, and the affidavit of R. S. filed the —— day of ——, 188—, on behalf of the plaintiff [*or*, defendant] will be used in support of the above motion for judgment, and will be read on the said motion.

---

796. Notice of motion for judgment where issues have been directed and tried (*g*). [Dan. Pr. 665.]

Formal parts: see Form 38.

on the part of the plaintiff [*or as may be*].

That, the issues [*or*, questions of fact] directed to be tried by the order dated the —— of ——, 188—, having been tried and determined, judgment may be entered for the plaintiff [*or*, defendant] for (*State the judgment sought*).

797. Notice of motion or summons to postpone trial of issues, and for leave to set down action on motion for judgment (*h*). [Dan. Pr. 665.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that the trial of the following issues [*or*, questions of fact] directed to be tried in this action, viz.: (1) Whether, &c., and (2) whether, &c., may be stayed. And that, notwithstanding that the same issues [*or*, questions] have not been tried or determined, the applicant may be at liberty to serve notice of motion for judgment, and to set down such motion for judgment; and that the costs of this application may be costs in the action.

---

798. Notice of motion to set aside a judgment entered and enter another (*i*). [Dan. Pr. 664, 665.]

Formal parts: see Form 38.

on the part of the plaintiff [*or*, of the defendant], that the judgment directed to be entered in this action by the honourable Mr. Justice ——, at the trial thereof before him [*if so:* with a jury], on the —— day of ——, 188—, may be set aside on the ground that (*Here specify the ground upon which the motion is made; as thus:*

that no further notice will be given of their having been so marked. Such statements will dispense with the necessity for giving further notice that the motion has been marked short: Registrar's notice of April, 1877; see 1 Seton, 39.

(*g*) See R. S. C. Ord. XL. 7; and note (*a*), *supra*. For form of judgment, see 1 Seton, 389, No. 2.

(*h*) See R. S. C. Ord. XL. 8; and note (*a*), *supra*.

(*i*) See R. S. C. Ord. XL. 3, 4; and note (*a*), *supra*. As to when the application will be to the Court of Appeal, and when to a Divisional Court, see R. S. C. Ord. XL. 5; and note (*a*), *supra*.

such judgment is wrong, by reason that the finding of the jury upon the question [*or*, questions] submitted to them has not been properly entered—*or*, upon the finding as entered the judgment so directed is wrong :

and that judgment may be entered in this action for the plaintiff [*or as may be*] for (*Here specify the terms of the judgment which it is sought to have entered*).

799.

Notice of motion to set aside judgment directed by a referee and to enter another (*j*). [Dan. Pr. 665, cccIxxviii.]

Formal parts : see Form 38.

on the part of the plaintiff [*or as may be*], that the judgment directed to be entered in this action by ——, the referee appointed by order dated the —— day of ——, 188—, may be set aside on the ground that (*Here specify the ground upon which the motion is made : as thus :*

upon the finding as entered the judgment so directed is wrong) ; and that judgment may be entered in this action for the plaintiff [*or as may be*], for (*Here specify the terms of the judgment which it is sought to have entered*) ; and that the costs of this application may be paid by the defendant [*or as may be*].

800.

Summons to enlarge time for serving notice of motion for judgment (*k*). Dan. Pr. 667.]

Formal parts : see Form 43.

on the part of the plaintiff [*or as may be*], that the time within which the applicant may serve notice of motion for judgment in this action, and may set down such motion for judgment, may be enlarged to the —— day of ——, 188— (*If the time has already expired, add :* notwithstanding the expiration of the time limited for that purpose by the Rules of the Supreme Court, Order XL., rule 2 [*or*, rule 7—*or*, rule 9]). And that the costs of this application may be costs in the action.

(2.) *Setting down a Motion for Judgment* (*l*).

(*j*) See R. S. C. Ord. XL. 6 ; and note (*a*), *supra*. For form of order, see 1 Seton, 395. No. 8.

(*k*) As to the times for setting down a motion for judgment, see R. S. C. Ord. XL. 2, 7, 9 ; and note (*a*), *supra*.

(*l*) Motions for judgment are not brought on as ordinary motions, but are set down in the cause book. They are set down with the Registrar of the Chancery Division ; or, if proceeding in a District Registry, with the District Registrar, who will forward to the senior Chancery Registrar a formal notification that the action has been so set down, with a copy of the notice of motion : and in such case, the two copies of the pleadings which have to be left on setting down, should be remitted by the solicitor in the country to his London agent for delivery to the Judge's officer : Registrar's notice of April, 1876 ; 1 Seton, 39, 40. The present practice is to serve notice of motion for judgment before setting down the motion, and a copy of the notice of motion must be produced to the Registrar on setting down : 1 Seton, 39. Where any defendant against whom judgment is sought has not appeared, an office copy of the pleadings and notice of motion filed against such defendant must be produced on setting down.

801.
Præcipe on setting down a motion for judgment (*m*). [Dan. Pr. 667.]

(*Title and reference to the record.*)

Enter this action on motion for judgment { (*if so*) on admissions in pleadings; *or*, in default of the defendant delivering a defence—*or*, in default of appearance of the defendant [*or as may be*]. } { (*if so*) as a "short" cause. }

Dated the —— day of ——, 188—.

X. Y., of (*address*),
Solicitor for the plaintiff [*or*, defendant].

802.
Notice of having set down the action on motion for judgment (*n*). [Dan. Pr. 667.]

Formal parts: see Form 37.

Take notice that I have this day set down this action on motion for judgment.

803.
Affidavit of service thereof.

(*Same as* Form 812.)

804.
Certificate that motion is fit to be heard as "short" (*o*). [Dan. Pr. 666.]

(*Short title and reference to the record.*)

I certify that the motion for judgment in this action is fit to be heard as short.

Dated —— day of ——, 188—.

X. Y.,
Counsel for the plaintiff [*or*, defendant].

805.
Notice that the motion has been marked as "short" (*p*). [Dan. Pr. 666.]

Formal parts: see Form 37.

Take notice that the motion for judgment in this action has been marked for hearing as "short" in the Registrar's Book of Causes.

(*m*) A fee of 2*l.* is payable on setting down: by a stamp impressed on the *præcipe*: Ord. as to S. C. Fees, 1884, Sched., No. 52; Ord. as to Fees, &c., July, 1884, p. 8.

(*n*) This notice is required to be given by R. S. C. Ord. XL. 2, 7.

(*o*) Motions for judgment may be marked "short" on the production of counsel's certificate, and will then be placed in the paper on the first short cause day after the day for which notice is given: Registrar's notice of April, 1876.

(*p*) Where the notice of motion contains a notice of the intention to mark the motion as "short," as in Form 795, no further notice is necessary: Registrar's notice of April, 1876.

806. (3.) *The Brief.*

Brief on hearing of motion for judgment (*q*). [Dan. Pr. 668, note (*z*).]

(1) Contents.

188—. B. No. .

(1) In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant.

Brief for the plaintiff [*or*, defendant].

Observations.

Here copy any necessary observations.

Fold the brief longways and indorse it thus:

(2) Indorsement.

(2) In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

(Short Cause.)

Brown *v.* Robinson. } Brief on the hearing of the plaintiff's [*or*, defendant's] motion for judgment.

For the (*Continue as in* Form 832).

(*q*) The brief will consist of a copy of the pleadings (if any) in the action, of any evidence which may have been filed in support of or in opposition to the motion, of such exhibits and other documents as may be necessary, and of any necessary and proper observations.

CHAPTER XV.

TRIAL AND HEARING OF THE ACTION AND ISSUES THEREIN.

(*Dan. Pr.*, pp. 669—784, ccclxxix.—ccclxxxiv.)

SECTION I.—MODES OF TRIAL AND ENTRY FOR TRIAL (*a*).

(*Dan. Pr.*, pp. 669—684, ccclxxix.—ccclxxx.)

(*a*) *Modes of Trial.—Summary of Material Provisions of R. S. C.* 1883.

	ORDER.
A. *By a Judge with a jury* :—	
(1.) Actions of slander, libel, false imprisonment, malicious prosecution, seduction, or breach of promise of marriage: upon notice given by plaintiff in his notice of trial; or by defendant, within *four days* from service of notice of trial or within such extended time as may be specially allowed, or in his notice of trial (r. 12)	XXXVI. 2.
(2.) In any cause or matter not within rr. 3, 4, 5 (as to which see *infra*) an order for a trial with a jury will be made on the application of any party . .	,, 6.
A trial with a jury must be by a single Judge, unless specially ordered to be by two or more Judges . .	,, 9.
B. *By a Judge without a jury* :—	
(1.) Causes or matters assigned by the Sup. Ct. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 34, to the Chancery Division	,, 3.
(2.) Questions or issues of fact, or partly of fact and partly of law, arising in any cause or matter, which previously to the Sup. Cot. Jud. Act, 1873, could, without any consent, have been tried without a jury .	,, 4.
(3.) Any cause, matter, or issue requiring any prolonged examination of documents or accounts, or any scientific or local investigation, not to be conveniently made with a jury	,, 5.
(In case (1) the trial will be *without a jury* unless otherwise ordered; in cases (2) and (3) the Court or a Judge may direct that mode of trial.)	
(4.) In every cause or matter, not within rr. 2, 6 (see *supra*), the mode of trial will be by a Judge without a jury; but the Court or a Judge may order any cause, matter, or issue to be tried by a Judge with a jury, or by a Judge sitting with assessors, or by an official Referee or special Referee with or without assessors	,, 7 (*a*).
C. *Trial of questions of fact by different modes.*—The Court or a Judge may order that different questions of fact arising in any cause or matter be tried by different modes of trial, or that one or more questions or issues of fact be tried before the others	,, 8.

(1.) *Place of Trial* (*b*).

807.

Notice by plaintiff of place of trial (*c*).
[Dan. Pr. 669, ccclxxix.]

Formal parts: see Form 37.

Take notice that the place of trial of this action is the county of ——.

808.

Notice of motion or summons to change the place of trial (*d*).
[Dan. Pr. 669.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant [*or as may be*], that the place of trial of this action may be changed from the county of —— to the county of ——.

(2.) *Notice of Trial* (*e*).

(*e*) *Notice of Trial.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
By plaintiff.—May be given with the reply (if any) whether it closes the pleadings or not, or at any time after the issues of fact are ready for trial	XXXVI. 11.
By defendant.—If plaintiff does not give notice within *six weeks* from close of the pleadings, defendant may do so, or may apply to dismiss the action for want of prosecution . . .	,, 12.
Form of notice of trial.—It must state whether it is for the trial of the cause or of issues therein, and the place and day for which it is to be entered; and must be in the prescribed form (App. B., No. 16): see R. S. C. Oct. 1884, 5	,, 13 & 13*a*.
Length of notice.—Ten days' notice must be given, unless the party to whom it is given has consented or is under terms to take *short* notice, which is a *four days'* notice	,, 14.
Duration of notice of trial.—In London and Middlesex, unless within *six days* after notice the trial is entered by one party or the other, the notice of trial will no longer be in force . .	,, 16.
Notice for London or Middlesex.—In such case the notice must not be and will not operate as for any particular sittings; but will be deemed to be for any day after the expiration of the notice on which the trial may come on in its order upon the list	,, 17.

(*b*) *Place of trial.*—There is no local venue, except where otherwise provided by statute; every action must be tried (unless otherwise ordered) in the county or place named on the statement of claim, or (where no statement of claim), by a notice in writing to be served on the defendant or his solicitor, within *six days* after appearance; and where no place of trial is named, the place of trial will, unless otherwise ordered, be the County of Middlesex: R. S. C. Ord. XXXVI. 1. This rule applies to every action, notwithstanding that it may have been assigned to any Judge: R. S. C. Ord. XXXVI. 1*a* (R. S. C. Oct. 1884, 2); and see *Philips* v *Beale*, 26 Ch. D. 621: 32 W. R. 665.

(*c*) See R. S. C. Ord. XXXVI. 1; and note (*b*), *supra*.

(*d*) *Ibid.*; *Green* v. *Bennett*, 32 W. R. 848. The application should be supported by an affidavit showing the reasons for the proposed change of place of trial. For form of affidavit, see Chitty's Forms, 343. If a summons for directions is issued under R. S. C. Ord. XXX. 1, the application may be included in such summons. It should not be made until after the close of the pleadings.

	ORDER.
Notice for the country.—Notice of trial elsewhere than in London or Middlesex will be deemed to be for the first day of the then next assizes thereat	XXXVI. 18.
Countermanding notice of trial.—Must be by consent, or by special leave	,, 19.
Where evidence is taken by affidavit.—In such case the notice of trial must be given at the same time after the close of the evidence as in other cases after the close of the pleadings (as to which see R. S. C. Ord. XXXVI. 11, 12, *supra*) . .	XXXVIII. 30.

809.

Summons to extend time for giving notice of trial (*f*). [Dan. Pr. 671.]

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be* (*ff*)], that he may have —— days' further time to give notice of trial of this action. And that the costs of this application may be costs in the action.

810.

Notice of motion or summons to dismiss for want of prosecution in not giving notice of trial (*g*). [Dan. Pr. 671.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant C. D., that this action may stand dismissed

If there are other defendants, add: as against the said defendant for want of prosecution; with costs to be paid by the plaintiff to the said defendant.

811.

Notice of trial of action (*h*). [Dan. Pr. 671.]

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . Plaintiff,
and
C. D. . . . Defendant.

[Take

(*f*) See R. S. Ord. XXXVI. 11; XXXVIII. 30; and note (*e*), *supra*.

(*ff*) Notice of trial may be given by the plaintiff, *or other party in the position of plaintiff:* R. S. C. Ord. XXXVI. 11.

(*g*) See R. S. C. Ord. XXXVI. 12; and note (*e*), *supra*. An application to dismiss under this rule should generally be made at Chambers: *Freason* v. *Lowe*, 26 W. R. 138. For form of order, see 2 Seton, 1541, No. 3. The notice of trial given by the plaintiff must be an effective notice: *Crick* v. *Hewlett*, 27 Ch. D. 354; 32 W. R. 922. Instead of applying to dismiss for want of prosecution, the defendant may himself give notice of trial, after the expiration of the period specified in R. S. C. Ord. XXXVI. 12; which period cannot be abridged under Ord. LXIV. 7: *Saunders* v. *Pawley*, W. N. (1885), 8; 33 W. R. 277.

(*h*) See R. S. C. Ord. XXXVI. 13; App. B., No. 16; and note (*e*), *supra*. In cases within R. S. C. Ord. XXXVI. 2, the notice *may* signify the desire of the plaintiff to have a trial by jury. The place and day for which the action is to be entered for trial *must* be stated: R. S. C. Ord. XXXVI. 13 (as amended by R. S. C. Oct. 1884, 5). As to any defendant who has not appeared, the notice may be served by being filed at the Central Office, or with the District Registrar: R. S. C. Ord. XIX. 10; LXVII. 4; see *Dymond* v. *Croft*, 3 Ch. D. 512; *Morton* v. *Miller*, 3 Ch. D. 516.

Take notice of trial of this action [*or*, of the issues in this action ordered to be tried—*or as may be*],

State the mode of trial; as thus:

before the Honourable Mr. Justice ——.

for the —— day of ——, 188—.

Dated this —— day of ——, 188—.

X. Y., of —— [agent for M. N., of ——],
Solicitor for the Plaintiff [*or*, Defendant—*or as may be*].

To Mr. P. Q., Solicitor [*or*, Agent] for the
Defendant [*or*, Plaintiff].

812.

Affidavit of service of notice of trial (*i*). [Dan. Pr. 684, cclxxx.]

Formal parts: see Form 6.

1. On ——day, the —— day of ——, 188—, before six o'clock in the evening [*or*, before two o'clock in the afternoon (*j*)], I served (*Here describe the person or persons required to be served, as thus:*

C. D., the defendant in this action; *or*,

Mr. P. Q., who acts as solicitor [*or*, agent] in this action for the defendant C. D.; *or*,

each of the following persons, that is to say: (1) C. D., one of the defendants in this action; (2) Mr. R. S., who acts as solicitor in this action for the defendant E. F.; and (3) Mr. T. U., who acts as agent in this action for the defendant G. H.—*or as may be*)

with a notice in writing intituled in this action, addressed to the said (*State whom*), and purporting that (*Recite the body of the notice*), by delivering a true copy of the said notice to, and leaving the same with (*Describe the person or persons on whom, and where, service was effected; as thus:*

the said C. D. [*or*, the said Mr. P. Q.], personally, at (*State where*), in the (county) of ——; *or*,

a clerk [*or*, servant—*or as may be*] of the said C. D. [*or*, of the said Mr. P. Q.], at his address for service, situate at (*State where*), in the (county) of ——; *or*,

each of the following persons, that is to say: (1) the wife [*or*, servant—*or as may be*] of the said C. D., at his address for service, situate at (*State where*); (2) the said Mr. R. S. personally, at (*State where*); and (3) a clerk [*or*, servant—*or as may be*] of the said Mr. T. U., at his address for service, situate at (*State where*)).

(*i*) The old rule of the Court was that, in the event of the party served making default, the affidavit of service must be produced in Court when the action came on for trial, or, at the latest, before the rising of the Court on the same day: *Miltown* v. *Stewart*, 8 Sim. 34. This rule was recently discussed by the Court of Appeal: see *Seear* v. *Webb*, 25 Ch. D. 84: 32 W. R. 351; and see, as to the directions given to the Chancery Registrars, note (*a*) to Form 31. It seems that where notice of trial is served by a party who does not appear at the trial, the party served will not be required to prove such service: see *James* v. *Crow*, 7 Ch. D. 410.

(*j*) See R. S. C. Ord. LXIV. 11; *Ibid.*, LXVII, 9.

(3.) *Settling the Mode of Trial.*

813. Notice of motion or summons for special order as to mode of trial (*k*). [Dan. Pr. 678, ccclxxx.]

Formal parts: see Form 38 *or* 43.
on the part of the plaintiff [*or as may be*], that this action [*or*, the issues of fact in this action], may be tried by a Judge sitting with assessors (*n*) ; *or*,
by an official referee (*l*) ; *or*,
by a special referee (*m*) ; *or*,
by an official referee with assessors (*n*) ; *or*,
by a special referee with assessors (*n*) ;
and that the costs of this application may be costs in the action.

---

814. Notice of motion or summons for trial of action by a judge with a jury (*o*). [Dan. Pr. 673—675, ccclxxix.]

Formal parts: see Form 38 *or* 43.
on the part of the plaintiff [*or as may be*] that this action [*or*, the issues of fact in this action] may be tried by a Judge with a jury.

---

815. Notice of motion or summons for separate trials of distinct causes of action (*p*). [Dan. Pr. 678.]

Formal parts: see Form 38 *or* 43.
on the part of the defendant, that separate trials may be had of the

(*k*) See R. S. C. Ord. XXXVI. 7 (*a*) ; and note (*a*), *supra*. If a summons for directions is issued under R. S. C. Ord. XXX. 1, the application may be included in such summons.

(*l*) It would seem that, except by consent, the action itself cannot be referred to an official referee : *Longman* v. *East*, 3 C. P. D. 142 ; and it is apprehended that the language of R. S. C. Ord. XXXVI. 7 (*a*), cannot be construed as affecting this decision : see *Cardinall* v. *Cardinall*, W. N. (1884), 6. The Sup. Cot. of Jud. Act, 1884 (47 & 48 Vict. c. 61), s. 9, provides that in any cause or matter, in which all parties who are under no disability *consent*, the Court or a Judge may at any time, on such terms as may be thought proper, order the whole cause or matter to be tried before an official referee, who shall have power to direct how the judgment of the Court shall be entered, and to exercise the same discretion as to costs as the Court or Judge could have exercised.

(*m*) See 36 & 37 Vict. c. 66, s. 57. As to the powers of a special referee, see *Longman* v. *East*, 3 C. P. D. 142 ; *Braginton* v. *Yates*, W. N. (1880), 150. It seems that a special referee can only be appointed to try a question or issue of fact in the action, but that the whole action cannot be referred to him. The remuneration to be paid to a special referee must be determined by the Court : s. 56 of Sup. Cot. Jud. Act, 1873. In *Wallis* v. *Lichfield*, W. N. (1876), 130, the remuneration of the special referee was fixed at five guineas a sitting.

(*n*) Trials with assessors are to take place in such manner and upon such terms as the Court or a Judge shall direct : R. S. C. Ord. XXXVI. 43.

(*o*) See R. S. C. Ord. XXXVI. 3, 6, 7 (*a*) ; and note (*a*), *supra*. Where the whole case is a proper one to be tried by a jury, it is the more convenient practice to transfer the action altogether to the Queen's Bench Division : *Re Martin, Hunt* v. *Chambers*, 20 Ch. D. 365 : 30 W. R. 527. For cases in which the Court has granted or refused the application to try by jury, see Dan. Pr. 673—675 ; Wilson, 338 ; Ann. Pr. 369—370 ; *Cardinall* v. *Cardinall*, 25 Ch. D. 772 : 32 W. R. 411 ; *Moss* v. *Bradburn*, W. N. (1884), 14 : 32 W. R. 368 ; *Coles* v. *Civil Service Supply Association*, 32 W. R. 407.

(*p*) See R. S. C. Ord. XVIII. 1.

several causes of action united by the plaintiff in this action, that is to say, a separate trial of the plaintiff's claim for or in respect of ——, and a separate trial of the plaintiff's claim for or in respect of ——. Or that such other order may be made for the separate disposal of the said causes of action as may be necessary or expedient.

816.

Notice of motion or summons for trial of different questions of fact by different modes or at different times (*q*). [Dan. Pr. 677, 678.]

Formal parts : see Form 38 *or* 43.

on the part of the defendant [*or as may be*], that the question of fact arising in this action, whether, &c. (*State the question*) may be tried by (*State the mode of trial ; as thus :* by a Judge with a jury), and that the question of fact therein, whether, &c. (*State the question*) may be tried by (*State the mode of trial ; as thus :* by a Judge without a jury).

Or,

that the question [*or*, issue] of fact arising in this action, whether, &c. (*State the question or issue*) may be tried before the question [*or*, issue] of fact, whether, &c. (*State the question or issue*).

817.

Notice of motion or summons for order for trial of issues without a jury (*r*). [Dan. Pr. 673, ccclxxix.]

Formal parts : see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that the following questions or issues of fact [*or*, partly of fact and partly of law] arising in this action may be tried before a Judge without a jury [*or as may be : see* Form 813 ; *and if so, add :* at the sittings in Middlesex ; *or*, at the assizes to be holden in and for the county of ——*; or as may be*] that is to say :—

1. Whether, *&c.* }
2. Whether, *&c.* } (*Here state the questions to be determined*) (*s*).

(4.) *Countermanding Notice of Trial.*

818.

Consent to notice of trial being countermanded (*t*). [Dan. Pr. 673.]

(*Short title and reference to the record.*)

We, the undersigned solicitors for the defendants in this action, hereby consent to the plaintiff countermanding his notice of trial of this action dated the —— day of ——, 188—.

Dated —— day of ——, 188—.

P. Q., solicitor for defendant, C. D.
R. S., solicitor for all the other defendants.

(*q*) See R. S. C. Ord. XXXVI. 8 ; and note (*a*), *supra ; Emma Silver Mining Co.* v. *Grant*, 11 Ch. D. 918 ; *Dent* v. *Sovereign Life Assurance Co.*, W. N. (1879), 33 : 27 W. R. 379 ; Wilson, 339, 340 ; Ann. Pr. 372, 373.

(*r*) See R. S. C. Ord. XXXVI. 4, 5 ; and note (*a*), *supra.*

(*s*) For forms of various issues, see 1 Seton, 381—386.

(*t*) See R. S. C. Ord. XXXVI. 19 ; note (*e*), *supra ;* 1 Seton, 377.

819. Summons for liberty to countermand notice of trial (*t*). [Dan. Pr. 673.]

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be*], that he may be at liberty to countermand the notice of trial of this action given by him on the —— day of ——, 188—.

820. Notice of countermand (*t*). [Dan. Pr. 673.]

Formal parts: see Form 37.

Take notice that, by consent [*or*, by virtue of the order dated —— day of ——, 188—], I hereby countermand the notice of trial of this action, given by me on the —— day of ——, 188—.

(5.) *Entry of Trial* (*u*).

(*u*) *Entry of Trial.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Time for entry.—The trial cannot be entered until notice of trial is given	XXXVI. 15.
In London and Middlesex it must be entered within *six days* after notice of trial, otherwise such notice is no longer in force	,, 16.
If the party giving notice of trial for London or Middlesex omits to enter the trial on the day or day after giving notice of trial, the other party may within *four days* enter the trial	,, 20.
Entry in district registry.—Special provision for trial of witness causes assigned to the Chancery Division at the assizes for Liverpool or Manchester. (See R. S. C. Oct. 1884, 3)	,, 22*a*.
After notice has been given for trial elsewhere than in London or Middlesex, either party may, not less than *seven days* before the commission day, enter the trial at the next assizes in the District Registry of the city or town where the trial is to be had, or with the Associate. No later entry will be allowed except by special leave. (See R. S. C. Oct. 1884, 4, annulling R. S. C. 1883, XXXVI. 22)	,, 22*b*.
Lists of trials.—The District Registrars must provide two numbered lists for trials with and without juries respectively. The entry must be made in the proper list in such vacant number as the party entering shall select: the lists must be open for inspection of all parties interested during office hours	,, 24.
Notice of postponement.—Notice of postponement, withdrawal under R. S. C. Ord. XXVI. 2, or settlement of an action entered for trial, must be given to the District Registrar, who will expunge the entry	,, 25.
Transmission of lists to Associate.—The District Registrar must close the lists, and transmit a corrected copy, with the documents left by the parties entering trials, to the Associate at the assize town, so that he may receive the same before the opening of the commission	,, 26.
Entry by Associate.—Trials must be entered by the Associate in such vacant numbers in the lists as the party entering may select	,, 27.
Order of trial.—If the trial be entered by both parties, it will be tried in the order of the plaintiff's entry	,, 28.
Copies of pleadings.—The party entering the trial must deliver to the proper officer two copies of the whole of the pleadings: such copies to be in print, except as to such parts (if any) as are by the rules permitted to be written	,, 24, 30

(*t*) See R. S. C. Ord. XXXVI. 19; note (*a*), *supra*; 1 Seton, 377.

821.

Præcipe on entering action for trial (*v*). [Dan. Pr. 680.]

(*Title and reference to the record.*)

Enter this action for trial (*if witnesses are to be examined, say:* "with witnesses" (*w*)).

Dated —— day of ——, 188—.

X. Y. (*address*),

Solicitor for the plaintiff [*or*, defendant].

822.

Certificate of counsel that action is fit to be heard "short" (*x*). [Dan. Pr. 681, 685, 686.]

(*Short title and reference to the record.*)

I certify that this action is fit to be heard as a short cause.

Dated —— day of ——, 188—.

X. Y.,

Counsel for the plaintiff [*or*, defendant].

823.

Notice that action has been marked "short" (*y*). [Dan. Pr. 681.]

Formal parts: see Form 37.

Take notice that this action has been marked for hearing as a short cause in the Registrar's Book of Causes standing for trial.

(*v*) See R. S. C. App. G., 22. Where the action is to be tried before a Judge in the Chancery Division it is entered for trial with the Registrar: where it is to be tried at the sittings held in Middlesex or London, or at the Assizes, the trial is entered with the associate or District Registrar. Wherever an action is to be tried before a Judge and jury, it must be tried at the sittings in Middlesex or London, or at the Assizes: *Warner* v. *Murdoch*, 4 Ch. D. 750. The lists of actions for trial at the sittings in London and Middlesex are prepared, and the actions are allotted for trial, without reference to the division of the Court to which such actions are attached: R. S. C. Ord. XXXVI. 29; see 1 Seton, 16. Upon entering the trial a fee of 2*l.* is payable: by a stamp impressed on the *præcipe:* see Ord. as to S. C. Fees, 1884, Sched. No. 52; Ord. as to Fees, &c., July, 1884, p. 8. Two copies of the pleadings must be left with the proper officer, together with a copy of the notice of trial: R. S. C. Ord. XXXVI. 24, 30; and note (*u*), *supra*.

(*w*) It seems that the present practice is for the parties to state on the *præcipe* whether witnesses will be examined; if it is uncertain at the time of setting down whether witnesses will be examined, either party can give verbal notice at any time before trial, and the Cause Clerk will on request mark the action for witnesses in the Cause Book, but the words "*with witnesses*" cannot be withdrawn without the consent of all parties.

(*x*) See 1 Seton, 17, 39. An action will not be heard as "short" unless the evidence, if any, has been taken by affidavit: *Anon.*, W. N. (1875), 193.

(*y*) If the defendant does not appear at the trial, an affidavit of service of this notice is required. If any defendant has not appeared, the notice may be served on him by being filed at the Central Office, or with the District Registrar: R. S. C. Ord. XIX. 10; LXVII. 4: see *Dymond* v. *Croft*, 3 Ch. D. 512; *Morton* v. *Miller*, 3 Ch. D. 516. The notice is not required where the action is to be heard on motion for judgment, and the notice of motion states that the cause will be heard "short."

(6.) *Withdrawal of Action.*

824.

Consent to withdrawal of action entered for trial (*z*).
[Dan. Pr. 683.]

(*Short title and reference to the record.*)

We consent that this action, which has been entered for trial, be withdrawn, and be struck out of the list of actions standing for trial accordingly.

Dated —— day of ——, 188—.

O. P., solicitor for plaintiff,
Q. R., solicitor for defendant C. D.,
S. T., solicitor for all the other defendants.

825.

Notice of motion or summons for leave to withdraw action entered for trial (*a*).
[Dan. Pr. 683.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that he may be at liberty to withdraw this action, which has been entered for trial; and that it may be struck out of the list of actions standing for trial accordingly.

826.

Certificate that action compromised (*b*).
[Dan. Pr. 684.]

(*Short title and reference to the record.*)

I certify that this action, which now stands in the Registrar's Book of Causes for trial before Mr. Justice ——, is compromised.

Dated this —— day of ——, 188—.

X. Y.,
Plaintiff's solicitor.

To the Registrars of the Chancery Division
of the High Court of Justice.

(*z*) See R. S. C. Ord. XXVI. 2; and note (*a*), at p. 255.

(*a*) *Ibid.*, Ord. XXVI. 1.

(*b*) It seems that the more usual form, under the present practice, is a written request by both sides for withdrawal of the compromised action: see Form 824; but a certificate of compromise in the form in the text is not refused.

Section II.—Trial by a Judge (*a*).

(*Dan. Pr.*, pp. 685—710, cccl.xxx.—cccl.xxxi.)

(*a*) *Proceedings at Trial.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Non-appearance of defendant at trial.—In such case the plaintiff may prove his claim, so far as the burden of proof lies on him	XXXVI. 31.
Non-appearance of plaintiff.—In such case the defendant, if he has no counterclaim, is entitled to judgment dismissing the action; if he has a counterclaim, he may prove such counterclaim, so far as the burden of proof lies on him . . .	,, 32.
Setting aside verdict or judgment by default.—Any such verdict or judgment may be set aside upon an application made within *six days* after the trial	,, 33.
Adjournment of trial.—The Judge may postpone or adjourn a trial for such time, and to such place, and upon such terms, as he shall think fit	,, 34.
Judgment—further consideration.—The Judge may, at or after a trial, direct that judgment be entered for any or either party, or adjourn the case for further consideration, or leave any party to move for judgment. No judgment can be entered after a trial, without an order of a Court or Judge	,, 39.
Note of proceedings at the trial.—The registrar, master, or other proper officer, must make a note of the times at which each hearing or trial commences and terminates on each day on which the same takes place, for communication to the taxing officer if required	,, 40.
As to entry of findings of fact, on trial at the assizes, &c. .	,, 41.
If the Judge directs entry of judgment, absolutely for any party, the certificate of the associate or master is a sufficient authority to the proper officer to enter judgment. Such certificate must be in the prescribed form (App. B. No. 17) . . .	,, 42.

(1.) *Advancing and Postponing the Trial.*

827.

Consent to action being prematurely heard (*b*). [Dan. Pr. 686.]

(*Short title and reference to the record*).

We consent to this action being placed in the paper of actions for trial before Mr. Justice ——, on the —— day of ——, 188—.

Dated the —— day of ——, 188—.

O. P., solicitor for the plaintiff,
Q. R., solicitor for the defendant C. D.,
S. T., solicitor for all the other defendants.

828.

Notice of motion to advance an action. [Dan. Pr. 685.]

Formal parts: see Form 38.

on the part of the plaintiff [*or as may be*], that this action may be advanced, and may be ordered to come on for trial next after the actions which have already been placed in the paper of any day for trial.

(*b*) In the Chancery Division an ordinary action cannot be advanced except by order of a Judge. The only case in which a consent can be taken to advance is where the action has been marked as a short cause.

829.
Consent to adjournment of trial.
[Dan. Pr. 688.]

(*Short title and reference to the record.*)

We request and consent that this action, which is set down to be tried before Mr. Justice —— [*or as may be*], be not placed in the paper of actions for trial until the —— day of ——, 188—. And that it be marked in the Registrar's Book of Causes as standing over to that day.

Dated —— day of ——, 188—.

O. P., solicitor for the plaintiff,
Q. R., solicitor for defendant C. D.,
S. T., solicitor for all the other defendants.

To the Registrars of the Chancery Division
of the High Court of Justice.

830.
Notice of motion that trial may be postponed (*d*).
[Dan. Pr. 688.]

Formal parts: see Form 38.

on the part of the plaintiff [*or as may be*], that the trial of this action may be postponed until (*State when*); and that this action may be marked accordingly in the Registrar's Book of Causes standing for trial.

831.
Notice of motion to fix a day for the trial of the action.
[Dan. Pr. 689.]

Formal parts: see Form 38.

on the part of the plaintiff [*or as may be*], that a day may be fixed for the trial of this action.

(2.) *The Brief.*

832.
Brief on the trial of the action: where witnesses are examined *viva voce* in open court (*e*).
[Dan. Pr. 689, note (*p*).]

(1) Contents.

188—. B. No. .

(1) In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant.

Brief for the plaintiff [*or*, defendant].

CASE.

Insert the narrative of the case: which should be stated accurately, and with as much conciseness as is consistent with perspicuity, and generally in the order of time at which the events took place; after which, proceed thus:

(*d*) See R. S. C. Ord. XXXVI. 34; and note (*a*), *supra*; 1 Seton, 377. For form of order postponing trial, see 1 Seton, 372, No. 4. The application should be made at the latest in the forenoon of the day before the day on which the action is to be in the paper for trial.

(*e*) As to the contents of the brief, see Dan. Pr. 689, note (*p*). If the papers sent to counsel are numerous, they should be numbered consecutively in the top right-hand corner, and an index should accompany.

PROOFS.

To prove that (*Insert the facts as they are to be proved, and add*) Call { (*Insert the name and profession, trade, or business of each witness; and if the case depends upon the testimony of old people, add also the age.*)

(2) Indorsement.

Fold the brief longways, and indorse it thus:

(2) In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
To be tried before Mr. Justice ——, with witnesses.

Brown
v.
Dobinson,
188—. B. No. .

Brief
on the Trial of the Action.

For the plaintiff [*or*, defendant].
Mr. Y., Q. C.

— Guineas.
Consultation . . . — „
— „

With you,
Mr. Z.

Consultation on the —— day of ——, 188—, at —— of the clock in the —— noon, at (*State where*).

P. & Q.,
300, Chancery Lane,
Solicitors for plaintiff [*or*, defendant].

833.

Brief on the trial of the action: where evidence taken by affidavit. [Dan. Pr. 689, note (*p*).]

188—. B. No. .

(1) In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant.

(1) Contents.

Brief for the plaintiff [*or*, defendant].

OBSERVATIONS.

Here copy any observations which may be necessary.

Fold the brief longways, and indorse it thus:

(2) Indorsement.

(2) In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
To be tried before Mr. Justice —— on affidavit evidence (*If so, add:*

and the cross-examination of witnesses in open Court).

Brown
v.
Dobinson,
188—. B. No.

Brief
For the plaintiff (*&c.: Conclude as in* Form 832).

(3.) *Proceedings in Default of Appearance of either Party at the Trial.*

(*See* Form 897.)

834. Judgment for plaintiff in default of appearance by defendant at the trial (*f*). [Dan. Pr. 690.]

(*See* Form 898.)

835. Judgment for defendant dismissing an action in default of appearance by plaintiff at the trial (*g*). [Dan. Pr. 690.]

Formal parts: see Form 38.

on behalf of the plaintiff [*or*, defendant], that the judgment in this action, dated —— day of ——, 188—, whereby it was ordered (*Set out ordering part of judgment*), may be set aside on the ground that (*Show the grounds of the application*).

836. Notice of motion to set aside judgment obtained on default of appearance at the trial (*h*). [Dan. Pr. 690.]

(4.) *Examination of Witnesses viva voce at the Trial.*

(*See* Forms 769 *to* 783.)

837. Oaths, affirmations, and declarations of witnesses. Dan. Pr. 692.]

(*See* Forms 733 *to* 763.)

838. Compelling the attendance of witnesses. Dan. Pr. 692.]

(*f*) See R. S. C. Ord. XXXVI. 31; and note (*a*), *supra*. Service of notice of trial should be proved: *Cockshott* v. *London General Cab Co.*, 26 W. R. 31.

(*g*) See R. S. C. Ord. XXXVI. 32; and note (*a*), *supra*; 2 Seton, 1543, No. 3. Service on the defendant of notice of trial need not be proved: *James* v. *Crow*, 7 Ch. D. 410; *Re Palmer, Skipper* v. *Skipper*, 32 W. R. 83.

(*h*) See R. S. C. Ord. XXXVI. 33; and note (*a*), *supra*. For form of order, see 2 Seton, 1544, No. 4. For cases in which an order has been made, see Dan. Pr. 690, note (*r*); Wilson. 352; Ann. Pr. 380; 2 Seton, 1544.

(5.) *Proceedings where Damages awarded at the Trial (i).*

839. Summons for liberty to pay into Court a sum of money in respect of damages awarded at the trial, where an inquiry directed as to the amount. [Dan. Pr. 708.]

Formal parts: see Form 43.

on behalf of the defendant, that he may be at liberty to pay into Court the sum of £—— in respect of the damages awarded by the judgment in this action, dated the —— day of ——, 188—; and that such sum when paid into Court may abide the result of the inquiry directed by the said judgment, and may not be paid out or otherwise dealt with without notice to the applicant.

Section III.—Trial of the Action or Issues by a Judge and Jury (*a*).

(*Dan. Pr.*, pp. 710—743, ccclxxxi.)

(1.) *Obtaining Order for Trial with a Jury.*

840. Notice of motion or summons for trial of the action or issues by a jury (*b*). [Dan. Pr. 716.]

(*Same as* Form 814.)

(2.) *Obtaining a Special Jury (c).*

(*c*) *Special Jury.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
A. *At instance of plaintiff.*—Where plaintiff is entitled to a jury, he may have the issues tried by a special jury, on giving notice in writing at the time when he gives notice of trial	XXXVI. 7 (*b*).
B. *At instance of defendant.*—Defendant may have issues tried by a special jury, on giving notice in writing, at any time after the close of the pleadings or settlement of the issues, and before notice of trial, or, if notice of trial has been given, not less than *six clear days* before the day for which such notice has been given	,, 7 (*c*).
C. *By order.*—A Judge may at any time make an order for a special jury, upon such terms, if any, as to costs and otherwise as may be just	,, 7 (*d*).

(*i*) As to the power of the Chancery Division of the High Court to award damages, and modes of assessment, see Dan. Pr. 705—708. Where damages are to be assessed in respect of any continuing cause of action, they are to be assessed down to the time of assessment: see R. S. C. Ord. XXXVI. 58. For form of order assessing damages at the hearing, see 2 Seton, 1319, No. 2. For forms of order directing an inquiry as to damages, see 1 Seton, 199, No. 6: 210, No. 2: 213, No. 2: 219, No. 2: 221, No. 5: 227, No. 4: 355, Nos. 17, 18; 2 Seton, 1285, No. 5: 1319, No. 4.

(*a*) See R. S. C. Ord. XXXVI. 2, 6, 7 (*a*); and note (*a*), at p. 323.

(*b*) For form of order for the trial of issues, see 1 Seton, 371, Nos. 1 and 2. As to the original practice of the Court of Chancery in directing issues, see Dan Pr. 711—716. For various forms of issues, see 1 Seton, 381—386.

841.
Notice of intention to have action tried by a special jury (*d*).
[Dan. Pr. 718.]

Formal parts: see Form 37.

Take notice, that it is the intention of the above-named plaintiff [*or*, defendant] to have this action [*or*, the issues in this action] tried by a special jury.

842.
Notice of motion or summons that action be tried by a special jury (*e*).
[Dan. Pr. 718.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or*, defendant], that this action [*or*, the issues in this action] may be tried by a special jury.

842 a.
Notice to sheriff that action to be tried by a special jury (*f*).

Formal parts: see Form 37.

Take notice that this action which is to be tried at the next assizes, to be holden in and for the county of —— [*or as may be*], is to be so tried by a special jury.

(3.) *Obtaining a view by the Jury.*

843.
Summons for a view (*g*).
[Dan. Pr. 722.]

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be*], that a view may be had of the place in question by the special [*or*, common] jury summoned and impanelled by the sheriff of Middlesex [*or as may be*] for the trial of this action, and that such view may be made on ——, the —— day of ——, 188, at —— o'clock in the —— noon, at (*State where*): which place is distant —— miles from the office of the under-sheriff of Middlesex [*or as may be*].

(4.) *The Brief.*

844.
Brief on the trial of the action with a jury.

(*Same as* Form 832, *except that the indorsement will be varied as follows:*)

To be tried at the sittings in Middlesex [*or*, at the —— assizes], by Mr. Justice, —— with a common [*or*, special] jury.

(*d*) See R. S. C. Ord. XXXVI. 7 (*b*), (*c*); and note (*c*), *supra*; C. L. P. Act, 1852, s. 109; The Juries Act, 1870 (33 & 34 Vict. c. 77), s. 18.

(*e*) See R. S. C. Ord. XXXVI. 7 (*d*); and note (*c*), *supra*. As to the practice on summoning a jury, see Dan. Pr. 721—722; Chitty's Arch. 332—342; Reg. Gen. H. T. 1853; The Juries Act, 1870 (33 & 34 Vict. c. 77). As to the qualification of jurors, see Dan. Pr. 723—726.

(*f*) See C. L. P. Act, 1852 (15 & 16 Vict. c. 76), s. 112.

(*g*) See R. S. C. Ord. L. 5; *Pickard* v. *Great Northern Railway Co.*, W. N. (1883), 194; Reg. Gen. H. T. 1853, r. 49; C. L. P. Act, 1852 (15 & 16 Vict. c. 76), s. 114; Chitty's Arch. 339—341. For form of affidavit in support of the application, and of order, see Chitty's Forms, 349. As to the fees payable on a view, see Chitty's Arch. 340.

(5.) *Proceedings in default of Appearance of either Party at the Trial.*

(*Same as* Forms 834 *to* 836.)

(6.) *Calling, Challenging, and Swearing the Jury.*

845.
Calling the jury (*h*).
[Dan. Pr. 726.]

Gentlemen of the jury: Answer to your names.

846.
Challenge to the array (*i*).
[Dan. Pr. 731.]

B. } And now at this day, to wit on ——, come as well the plaintiff
v. } as the defendant, by their respective solicitors as aforesaid:
D. } and the jurors of the jury impanelled also come. And hereupon the (defendant) challengeth the array of the said panel: because he saith that (*&c.; State the matter of challenge with certainty and precision*). And this he is ready to verify. Wherefore he prayeth judgment, and that the said panel may be quashed.

847.
Oath of triers of challenge to poll, to favour (*j*).
[Dan. Pr. 732.]

You shall well and truly try whether (*Name of juror challenged*) stands indifferent between the parties to this issue—So help you God.

848.
Oath to be administered to the jurors.
[Dan. Pr. 732.]

You shall well and truly try the question [*or*, questions] between the parties, and a true verdict give according to the evidence—So help you God.

849.
Affirmation of a Quaker juryman.
[Dan. Pr. 733.]

I, A. B., being one of the people called Quakers, do solemnly, sincerely, and truly declare and affirm, that I will well and truly try the question [*or*, questions] between the parties, and a true verdict give according to the evidence.

850.
Affirmation of a juryman under the 30 & 31 Vict. c. 35.
[Dan. Pr. 733, note (*m*).]

I, A. B., do solemnly, sincerely, and truly affirm and declare, that the taking of any oath is, according to my religious belief, unlawful. And

(*h*) As to who may be jurors, who are exempt from serving, and how exemption may be claimed, and the qualification of jurors, see Dan. Pr. 723—726; The Juries Act 1870 (33 & 34 Vict. c. 77), ss. 6, 8—10, 12, 16, 19, and Sched. The Judicature Acts and the Rules of Court thereunder do not affect the law relating to jurymen or juries: Sup. Cot. Jud. Act, 1875 (38 & 39 Vict. c. 77), s. 20. As to the mode of calling the jury, see Chitty's Arch. 332—339.

(*i*) As to the different kinds of challenge, and the trial thereof, see Dan. Pr. 727—732; Chitty's Arch. 388—393. For the form in the text, see Chitty's Forms, 356.

(*j*) Chitty's Arch. 393.

I do also solemnly, sincerely, and truly affirm and declare, that I will well and truly try the question [*or*, questions] between the parties, and a true verdict give according to the evidence.

(7.) *Examination of Witnesses vivâ voce at the Trial.*

(*Same as* Forms 769 to 783.)

851. Oaths, affirmations, and declarations of witnesses. [Dan. Pr. 734.]

(*Same as* Forms 733 *to* 763.)

852. Compelling the attendance of witnesses. [Dan. Pr. 734.]

(8.) *The Verdict.*

853. Oath of the usher of the Court, on jury retiring to consider their verdict. [Dan. Pr. 739.]

You shall well and truly keep this jury in some private and convenient place, without meat, drink, or fire (candle-light excepted) (*k*). You shall not suffer any person to speak to them, neither shall you speak to them yourself, without leave of the Court, except to ask them if they are agreed on their verdict—So help you God.

854. Delivery of the verdict. [Dan. Pr. 740.]

1. Gentlemen of the Jury: Are you agreed upon your verdict?
2. How do you find?

(9.) *The Associate's Certificate.*

(*Title and reference to the record.*)

855. Certificate of officer after trial (*l*). [Dan. Pr. 741.]

I certify that this action was tried before the Honourable Mr. Justice —— with a common [*or*, special] jury of the county of ——, on the —— day of ——, 188—.

The jury found (*State the findings*).

The Judge directed that judgment should be entered for the plaintiff [*or as may be*] for £——, with costs of suit [*or as may be*].

Dated —— day of ——, 188—.

X. Y. (*Add title of officer.*)

(*k*) See the Juries Act, 1870 (33 & 34 Vict. c. 77), s. 23.

(*l*) See R. S. C. Ord. XXXVI. 41, 42; which provide that where the officer present at the trial is not the officer by whom judgments ought to be entered, the Associate or Master must enter all such findings of fact as the Judge may direct to be entered, and the directions, if any, of the Judge as to judgment, and the certificates, if any, granted by the Judge, in a book to be kept for the purpose; and the certificate of the Associate or Master will be a sufficient authority to the proper officer to enter judgment. For this certificate a fee of 1*l.* is payable: by a stamp impressed on or adhesive to the certificate: see Ord. as to S. C. Fees, 1884, Sched. No. 53; Ord. as to Fees, &c., July, 1884, p. 8. For form in the text, see R. S. C. App. B., No. 17.

Section IV.—Trial by Referees and Arbitrators (*a*).

(*Dan. Pr.*, pp. 744—753, cccLxxxi.—cccLxxxii.)

(*a*) *Referees.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Distribution of business referred to Official Referees.—Such business is to be distributed among them in rotation by the clerks to the Chancery Registrars, as in the case of the conveyancing counsel	XXXVI. 45.
When an order has been made referring any business to the Official Referee in rotation, such order or a duplicate must be produced to the Registrar's clerk, who will indorse on the reference a note specifying the name of the Official Referee to whom such business is referred	,, 46.
The Court or a Judge may direct or transfer a reference to any one in particular of the Official Referees	,, 47.
Trial before Referee.—Where any cause or matter, or any question therein, is referred to a Referee, he may hold the trial at, or adjourn it to, any place which he may deem most convenient, and have any inspection or view, either by himself or with his assessors (if any), which he may deem expedient. He must, unless otherwise directed, proceed with the trial *de die in diem*	,, 48.
Evidence and procedure before Referees.—Evidence must be taken, the attendance of witnesses enforced by *subpœna*, and the trial conducted in the same manner, as nearly as circumstances will admit, as trials are conducted before a Judge . .	,, 49.
Authority of Referee.—The Referee has the same authority with respect to discovery and production of documents, and in the conduct of any reference or trial, and the same power to direct judgment to be entered, as a Judge of the High Court .	,, 50.
He may not, however, commit any person to prison, or enforce any order by attachment or otherwise	,, 51.
Power to submit questions to the Court.—The Referee may, before the conclusion of any trial before him, or by his report, submit any question for the decision of the Court, or state any facts specially, with power to the Court to draw inferences therefrom: and the Court can require any explanation or reason from the Referee, and remit the cause or matter, or any part thereof, for re-trial or further consideration to the same or any other Referee: or may decide the question referred on the evidence taken before the Referee, either with or without additional evidence	,, 52.
Notice of Referee's report.—Whenever a report is made by a Referee, he must on the same day cause notice thereof to be given to all the parties to the trial or reference by prepaid post letter directed to the address for service of each party . .	,, 53.
Application to adopt, vary, or remit report.—Where under s. 56 of Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), the report has been made in a cause or matter, the further consideration of which has been adjourned, any party, on the hearing on further consideration may, *without notice of motion or summons*, apply to the Court or a Judge to adopt the report, *or* give, not less than *four days notice of motion*, to come on with the further consideration, to vary the report or remit the matter for rehearing to the same or any other Referee	,, 54.
Where no further consideration has been adjourned, any party may, by an *eight days' notice of motion*, apply to the Court to adopt, vary, or remit the report	,, 55.

See Supreme Court of Judicature Act, 1873 (36 & 37 Vict. c. 66), ss. 56, 57; Supreme Court of Judicature Act, 1884 (47 & 48 Vict. c. 61), ss. 9, 10, 11; R. S. C. Ord. XXXVI. 7 (*a*).

(1.) *Trial by Referees.*

856.
Notice of motion or summons for reference to referee, under sec. 56 (*b*). [Dan. Pr. 747.]

Formal parts: see Form 38 *or* 43.
on the part of the plaintiff [*or as may be*], that pursuant to the Supreme Court of Judicature Act, 1873, s. 56, the following question arising in this action [*or*, matter] may be referred to the Official Referee in rotation (*c*) [*or*, to J. A., esquire, one of the Official Referees of the Supreme Court of Judicature (*c*); *or*, to Mr. X. Y., of, *&c.*, as Special Referee], to inquire and report whether (*Here state the question*). And that the costs of this application may be costs in the action [*or*, matter].

857.
Another form (*d*). [Dan. Pr. 747.

Formal parts: see Form 38 *or* 43.
on the part of the plaintiff [*or as may be*], that pursuant to the Supreme Court of Judicature Act, 1873, s. 56, it may be referred to Mr. A., of, *&c.*, as Special Referee, to survey and inspect the premises of the plaintiff and of the defendant respectively, and the premises adjoining thereto respectively, and to report whether or not the plaintiff's premises are affected by noise, arising or coming from the defendant's stables as ordinarily used by the defendant, and if so, then in what manner, and to what extent, and how the same is caused or arises. And also to report whether or not the plaintiff's premises are, or are likely to be, affected by the drainage coming from the defendant's stables as at present used, and if so, to what extent, in what manner, and how the same is caused or arises.

(*b*) An order of reference under the Sup. Cot. Jud. Act, 1873, s. 56, is for report only. As to references to Official and Special Referees, and as to the questions which can be referred to them, see Dan. Pr. 745—747; 1 Seton, 395—398; Wilson, 357, 358; Ann. Pr. 383; Chitty's Forms, 819, notes (*a*) and (*b*); *Longman* v. *East*, 3 C. P. D. 142; *Braginton* v. *Yates*, W. N. (1880), 150; *Ward* v. *Pilley*, 5 Q. B. D. 427; *Badische Anilin und Soda Fabrik* v. *Levinstein*, 24 Ch. D. 156; *Ormerod* v. *Todmorden Joint Stock Mill Co.*, 8 Q. B. D. 664; *Cardinall* v. *Cardinall*, W. N. (1884), 6. In all cases in which the Court or a Judge may, under ss. 3, 6, or 12 of C. L. P. Act, 1854, direct any matter to be ascertained by a Master, or referred to an arbitrator, or to an officer of the Court, or appoint an arbitrator, such Court or Judge may direct such matter to be ascertained by or referred to an Official Referee: 47 & 48 Vict. c. 61, s. 10. Whenever the parties to any deed or instrument in writing, made or executed after 24th October, 1884, shall agree that any existing or future difference between them shall be referred to an Official Referee, it shall be the duty of any one of the Official Referees to whom application shall be made for the purpose, subject to any order which may be made by the Court or a Judge for the transfer of the notice to any other official referee, or otherwise, to hear and determine any difference so agreed to be referred, and every such agreement shall be deemed to be an agreement to refer to arbitration within the meaning of C. L. P. Act, 1854, ss. 11, 17: *Ibid.*, s. 11.

(*c*) See R. S. C. Ord. XXXVI. 45, 46, 47; and note (*a*), *supra*.

(*d*) For forms of order, see 1 Seton, 393, No. 1; R. S. C. App. K., No. 32; *Broder* v. *Saillard*, 2 Ch. D. 692.

858.

Notice of motion or summons for trial of question before a referee, under sec. 57 (*e*). [Dan. Pr. 747.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that pursuant to the Supreme Court of Judicature Act, 1873, s. 57, the following question of fact [*or*, issue of fact—*or*, question of account] arising in this action [*or*, matter] may be tried before the Official Referee in rotation [*or*, before I. A., esquire, one of the Official Referees of the Supreme Court of Judicature—*or*, before Mr. X. Y., of, *&c.*, as Special Referee],

If so, add: with Mr. G. H., of, *&c.*, and Mr. I. K., of, *&c.*, as assessors,

that is to say, whether (*Here state the question*).

If it is desired that the trial may be on any particular terms, or may be conducted in any particular manner, add: And that such trial may be on the following terms [*or*, may be conducted in the following manner], that is to say: (*State what*).

859.

Notice of motion or summons to have accounts taken before referee, under sec. 57 (*f*).

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that pursuant to the Supreme Court of Judicature Act, 1873, s. 57, it may be referred to the Official Referee in rotation [*or as may be; see* Form 858], to take the following accounts, namely:

1. An account of, *&c.*
2. An account of, *&c.*

And that in taking the said accounts no settled accounts may be disturbed. And that what, upon taking the said accounts, may be reported to be due from either of the said parties to the other of them may be ordered to be paid by the party from whom to the party to whom the same shall be reported to be due, within one calendar month after the date of the report of such referee.

860.

Notice of motion or summons for trial of the action by an official referee (*g*).

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that this action [*or*, all the questions in this action] be tried by an Official Referee, who shall have all the powers of certifying and amending of a Judge of the High Court

(*e*) See Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 57; Sup. Cot. Jud. Act, 1884 (47 & 48 Vict. c. 61), s. 9. A reference under s. 57, is for decision, and not merely for report. For form of order, see 1 Seton, 393, No. 2; R. S. C. App. K., No. 33.

(*f*) For order in like case, see *Ormond* v. *Townsend*, M. R. 16 Dec. 1875, Reg. Lib. B. 2099.

(*g*) See R. S. C. Ord. XXXVI. 7 (*a*), 50. The summons in the text is framed from an official form of order in similar terms, which is to be procured in the Central Office; but whether, except by consent, the whole action can be referred to a Referee, either Official or Special, *quære:* see *Longman* v. *East*, 3 C. P. D. 142. As to trial of the action by an Official Referee by consent, see 47 & 48 Vict. c. 61, s. 9.

of Justice, and shall direct judgment to be entered and otherwise deal with the whole action pursuant to the Rules of the Supreme Court, Order XXXVI., rule 50.

861.
Note of name of official referee in rotation (*h*).
[Dan. Pr. 748.]

Mr. A. is the Official Referee in rotation.
Dated —— day of ——, 188—.
X. Y. (*Signature of Registrar's Clerk*).

862.
Appointment to proceed with reference before official referee (*i*).
[Dan. Pr. 749.]

188—. B. No.

In the Supreme Court of Judicature,
Official Referee's Court,
Chancery Division.
Between A. B. . . . Plaintiff,
and
C. D. . . . Defendant.

I appoint ——day, the —— day of ——, 188—, at —— o'clock in the ——noon to proceed with this reference *de die in diem* at my Court Room, No. ——, at the Royal Courts of Justice [*or*, at 3, Rolls Yard, Chancery Lane, in the County of Middlesex—*or, if the reference is held out of London*, at ——, in the county of ——].

Dated this —— day of ——, 188—.
J. A., Official Referee.

863.
The like before a special referee (*j*).

(*Title and reference to the record.*)

I appoint ——day, the —— day of ——, 188—, at —— of the clock

(*h*) See R. S. C. Ord. XXXVI. 46; and note (*a*), *supra*.

(*i*) As to mode of proceeding before a referee, see R. S. C. Ord. XXXVI. 48, 49, 50; and note (*a*), *supra*. Upon a reference to an official referee the following fees are payable, viz.:—On every reference 5*l.*, and for every hour or part of an hour the official referee is occupied beyond two full days 10*s.*; and on every sitting elsewhere than in London or Middlesex, a further fee for every night the official referee shall be absent from London of 1*l.* 11*s.* 6*d.*, and for his clerk 15*s.* Such fees become due and payable by the party conducting the proceedings on the report of the result of the reference, or if no report is made, on the completion of the proceedings, or if not completed, a due proportion will be payable on so much of the proceedings as shall have taken place, the amount to be fixed by the official referee. These fees are payable by stamps impressed upon, or affixed to a memorandum, stating on what account they are paid. A deposit of stamps may be required before the proceedings are commenced, or at any time during the course thereof; and a memorandum of the amount deposited will be delivered to the party making the deposit: see Ord. as to S. C. Fees, 1884, Sched. Nos. 88—91; Ord. as to Fees, &c., July, 1884, p. 9. Mr. Dowdeswell and Mr. Verey, two of the Official Referees, hold their sittings at Rooms 272 and 277, in the Royal Courts of Justice; Mr. Anderson and Mr. Roupell, the other two Official Referees, hold their sittings at No. 3, Rolls Yard, Chancery Lane.

(*j*) As to the mode of conducting a reference before a Special Referee, see R. S. C. Ord. XXXVI. 48, 49, 50; and note (*a*), *supra*. The remuneration to be

in the ——noon, at (*State where; as thus:* my Chambers, situate at No. ——, Old Square, Lincoln's Inn, in the county of Middlesex), to proceed with the inquiry [*or,* the trial—*or,* the accounts] directed by the order of reference, dated the —— day of ——. 188—. And I direct that all parties concerned do attend me accordingly.

Dated —— day of ——, 188—.

X. Y.,
Special Referee.

864. (*Title and reference to the record.*)

Report of referee (*k*). Dan. Pr. 750.] As Official Referee in rotation [*or,* as Official Referee—*or,* as Special Referee] to whom, by order made in this action [*or,* matter], and dated the —— day of ——, 188—, it was referred to try the following question or issue of fact, namely (*State what*) I report as follows, namely: That (*State the finding of the referee*).

Dated —— day of ——, 188—.

A. B.

865. (*Title and reference to the record.*)

The like (*l*). [Dan. Pr. 750.] As Official Referee (*&c.: as in* Form 864), to whom, by order (*&c.: as in* Form 864), the following inquiry was referred, that is to say: An inquiry what damages (*&c.: setting out the inquiry*), I report as follows, namely: That damages have been sustained by the defendant, *&c.*, and that the same amount to, *&c.*

Dated —— day of ——, 188—.

A. B.

866. (*Title and reference to the record.*)

The like (*m*). [Dan. Pr. 750.] As Official Referee (*&c.: as in* Form 864), to whom, by order (*&c.: as in* Form 864), it was referred to take the following accounts, namely: 1. An account of, *&c.;* 2. An account of, *&c.;* I report as follows, namely: That (*Here state result of taking each account, and the amount ultimately due from one party to the other*).

Dated —— day of ——, 188—.

A. B.

paid to the Special Referee must be determined by the Court: 36 & 37 Vict. c. 66, s. 56; in *Wallis* v. *Lichfield*, W. N. (1876), 130, and in *Re Perrin, Court* v. *Perrin*, M. R. 31 Jan. 1876, Reg. Lib. B. 127, where the Referees were Queen's Counsel, the remuneration was fixed at five guineas a sitting.

(*k*) The report or certificate of the Referee should be filed in the Central Office: 1 Seton, 398. For the form of report in the text, see *Re Leigh, Roweliffe* v. *Leigh, Brook's claim*, 1876, L. 100; report dated 9th June, 1877. A Referee has now power to direct judgment to be entered in the action: see R. S. C. Ord. XXXVI. 50; and note (*a*), *supra*. For form of judgment after trial before a Referee, see R. S. C. App. F., No. 8; and for form of judgment after trial of questions of account by a Referee: *Ibid.*, No. 9; Forms 873 and 874.

(*l*) See note (*k*) to Form 864. For form of report in the text, see *Mayor, &c., of Birmingham* v. *Allen*, 1876, B. 77; report dated 14th June, 1877.

(*m*) For form of report in the text, see *Ormond* v. *Townsend*, 1875, O. 2*a*; report dated 4th July, 1877.

867.

Notice of motion to vary, report, or remit cause for further consideration (*n*). [Dan. Pr. 750—751, cccIxxxii.]

Formal parts: see Form 38.

on the part of the plaintiff [*or as may be*], that the report dated the —— day of ——, 188—, of X. Y., esquire, the Official [*or*, Special] Referee in this action [*or*, matter], be varied by (*Set out the proposed variations*); or that this action [*or*, matter—*or*, the question] by the order dated the —— day of ——, 188—, referred to the said X. Y. to inquire and report [*or*, directed to be tried before the said X. Y.—*or as may be, as in order of reference*], may be remitted to the said X. Y. for rehearing [*or*, further consideration] in the following respects, namely: (*State the particulars requiring reconsideration*).

868.

Notice of motion for adoption of report where no further consideration is adjourned (*o*). [Dan. Pr. 750—751, cccIxxxii.]

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be*], that the report dated the —— day of ——, 188—, of X. Y., esquire, the Official [*or*, Special] Referee in this cause [*or*, matter] may be adopted;

If it is desired that part only of the report may be adopted, state what part; as thus: so far as the same reports that the sum of £—— is due from the defendant to the plaintiff;

And that (*Here state the relief claimed in accordance with the report; as thus:* the above-named defendant C. D. may be ordered to pay to the plaintiff the sum of £——, mentioned in the said report, together with the plaintiff's costs of this action: to be taxed).

869.

Notice of motion to vary, report, or remit cause or matter, where no further consideration is adjourned (*p*). [Dan. Pr. 750—751, cccIxxxii.]

(*Same as* Form 867.)

870.

Motion paper that report may be set down for hearing as a special case (*q*). [Dan. Pr. 750.]

Formal parts: see Form 36.

To move on behalf of the plaintiff [*or as may be*], that the report [*or*, the statement], dated the —— day of ——, 188—, of X. Y.,

(*n*) See R. S. C. Ord. XXXVI. 54; and note (*a*), *supra*. Not less than *four days'* notice of motion must be given, to come on with the further consideration. An application to *adopt* the report may be made on the hearing on further consideration, *without notice of motion or summons: Ibid.*

(*o*) See R. S. C. Ord. XXXVI. 55; and note (*a*), *supra*. An *eight days'* notice of motion must be given. The motion may be made at any time before judgment: see *Dyke* v. *Cannell*, 11 Q. B. D. 180: 31 W. R. 747; *Bedborough* v. *Army & Navy Hotel Co.*, 53 L. J. Ch. 658: 50 L. T. 173. For forms of order, see 1 Seton, 394, Nos. 3, 4.

(*p*) See R. S. C. Ord. XXXVI. 55; note (*a*), *supra*; and note (*n*), to Form 868.

(*q*) See R. S. C. Ord. XXXVI. 52; and note (*a*), *supra*.

esquire, the Official [*or*, Special] Referee in this action [*or*, matter], whereby questions are submitted [*or*, facts are stated] for the decision of the Court, pursuant to the Rules of the Supreme Court, Ord. XXXVI., rule 52, may be set down for hearing as a special case for the decision of the Court.

871.

Memorandum on setting down report (*r*).

[Dan. Pr. 750.]

(*Title and reference to the record.*)

Set down the report [*or*, statement], dated —— day of ——, 188—, of Mr. X. Y., the Official [*or*, Special] Referee in this cause [*or*, matter] for hearing as a special case.

Dated —— day of ——, 188—.

(*Name and address of solicitor or party setting down.*)

872.

Notice of having set down report.

Formal parts: see No. 37.

Take notice that I have this day set down (*Continue as in* Form 871 *to the end*).

873.

Judgment after trial before referee (*s*).

(*Title and reference to the record.*)

The —— day of ——, 188—.

The action having on the —— day of ——, 188—, been tried before X. Y., esquire, an Official [*or*, Special] Referee, and the said X. Y. having found [*or*, having ordered that judgment be entered] (*State substance of Referee's certificate*): It is this day adjudged that (*Set out judgment in accordance with the finding*).

874.

Judgment after trial of question of account by referee (*t*).

[Dan. Pr. 751.]

(*Title and reference to the record.*)

The —— day of ——, 188—.

The questions of account in this action having been referred to X. Y., an Official [*or*, Special] Referee, and he having found that there is due from the defendant [*or*, plaintiff] to the plaintiff [*or*, defendant] the sum of £——, and directed that the defendant [*or*, plaintiff] do pay the costs of the reference: It is this day adjudged that the plaintiff [*or*, defendant] recover against the said defendant [*or*, plaintiff] £——, and costs to be taxed.

The above costs have been taxed and allowed at £——, as appears by a taxing officer's certificate dated the —— day of ——, 188—.

(2.) *Trial by Arbitrators.*

(*Dan. Pr.*, pp. 751—753.)

(For forms in arbitrations, see Chap. XXXVIII., Section IX.).

(*r*) See R. S. C. App. G., No. 25. (*s*) *Ibid.*, App. F., No. 8.
(*t*) *Ibid.*, No. 9.

Section V.—Trial in a County Court (*a*).

(*Dan. Pr.*, pp. 753—755, cccLxxxii.—cccLxxxiii.)

875.
Summons that action may be tried in County Court (*b*).
[Dan. Pr. 754.]

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be*], that this action may be tried in the County Court of ——, holden at ——.

876.
Notice of day fixed for trial (*c*).
[Dan. Pr. 754.]

In the County Court of ——, holden at ——.

Between A. B. . . . Plaintiff,

and

C. D. . . . Defendant.

Whereas under the provision of section 26 of 19 & 20 Vict. c. 108, an action commenced in Her Majesty's High Court of Justice, wherein A. B., of (*address and description*), is plaintiff, and C. D., of (*address and description*), is defendant, has been ordered by the Honourable Mr. Justice —— to be tried in this Court.

Take notice, that the said action will be tried in this Court on the —— day of ——, 188—, at the hour of —— in the ——noon.

To plaintiff and defendant.

(*a*) *Trial in the County Court.*—See the County Courts Act, 1856 (19 & 20 Vict. c. 108), s. 26; Pitt Lewis's County Court Practice, 777—782. After the hearing, judgment will be entered by the proper officer, on production of the certificate of the Registrar of the County Court: R. S. C. Ord. XLI, 6. 7. No motion for judgment is necessary: *Scutt* v. *Freeman*, 2 Q. B. D. 177. For form of judgment after a trial in the County Court, see Form 893. A motion for a new trial must be made to the Superior Court: *Balmforth* v. *Pledge*, L. R. 1 Q. B. 427; *Copcutt* v. *Great Western Railway Co.*, L. R. 2 C. P. 465; *Ford* v. *Taylor*, 3 C. P. D. 21; but see *White* v. *Mainwaring*, 25 W. R. 253. By R. S. C. Ord. XXXIX. 1, the application must be made to a Divisional Court, even where the trial has been without a jury: *Davis* v. *Godbehere*, 4 Exch. D. 215: 27 W. R. 485; *London* v. *Roffey*, 3 Q. B. D. 6; *Swansea Co-operative Building Society* v. *Davies*, 12 Q. B. D. 21: 32 W. R. 185. The costs will be taxed in the superior Court, but, in the absence of any special directions, the costs of proceedings in the County Court will be taxed on the County Court scale: *Wheatcroft* v. *Foster*, E. B. & E. 737: 27 L. J. Q. B. 277. The costs will follow the event, unless by the Registrar's certificate of the result of the trial it appears that the Judge, before whom the action was tried, was of opinion that the question of costs ought to be referred to a Judge of the High Court: in which case no costs will be recovered unless ordered by the Court or a Judge: R. S. C. Ord. LXV. 4; *Evans* v. *Edwards*, W. N. (1883), 194.

(*b*) See note (*a*), *supra*. An action for unliquidated damages cannot be remitted for trial to a County Court, even when the writ is indorsed with a claim for a specified sum: *Knight* v. *Abbott, Page & Co.*, 10 Q. B. D. 11.

(*c*) See schedule of forms to County Court Rules, 1875, No. 79. Upon the order being drawn up, the plaintiff must lodge it and a copy of the pleadings in the action with the Registrar, who will then appoint a day for the hearing, and send a notice thereof to the parties or their solicitors: 19 & 20 Vict. c. 108, s. 26. A reasonable notice must be given, but not necessarily the same as in the Superior Court: *Ipswich Gas Co.* v. *Norman*, 7 B. & S. 847: 15 L. T. N. S. 290.

877.

Registrar's certificate of result of trial (*d*). [Dan. Pr. 754.]

(*Title as in* Form 876.)

I hereby certify that an action commenced in the High Court of Justice, wherein A. B. is plaintiff and C. D. is defendant, which, under section 26 of the County Courts Act, 1856, was ordered by a Judge thereof to be tried in this Court, has been heard accordingly in this Court on this day, and that the result was as follows :

(*Here state the findings, or that the plaintiff was non-suit.*)

Dated this —— day of ——, 188—.

—— Registrar.

Section VI.—New Trials (*a*).

(*Dan. Pr.*, pp. 755—781, ccclxxxiii.)

(*a*) *Motion for New Trial.—Summary of Material Provisions of R. S. C.* 1883.

ORDER.

Application: where made.—(1) Where there has been a trial by jury, to a Divisional Court of the Queen's Bench Division; (2) where there has been a trial without a jury, by appeal to the Court of Appeal . . . . . XXXIX. 1.

Judge at trial not to sit.—No Judge can sit on the hearing of any motion for a new trial in any cause or matter tried with a jury before himself . . . . . ,, 2.

Mode of application.—Every application must be by notice of motion, and no rule *nisi*, order to show cause, or formal proceeding other than such notice of motion, must be made or taken. The notice *must state the grounds of the application*, and whether all or part only of the verdict or findings is complained of . . . . . ,, 3.

Time for service of notice of motion.—The notice must be an *eight days'* notice, to be served within the times following, viz.:

(1.) If trial has taken place in London or Middlesex, within *eight days* after the trial (not reckoning vacations).

(2.) If elsewhere, within *seven days* after the last day of the circuits during which the trial has taken place (not reckoning vacations) . . . . . , 4.

Amendment of notice.—The notice may be amended by special leave . . . . . 5.

Grounds for granting new trial.—A new trial will not be granted on the ground of (1) misdirection; (2) improper admission or rejection of evidence; (3) because the verdict of the jury was not taken upon a question which the Judge at the trial was not asked to leave to them, unless it appear to the Court that some substantial wrong or miscarriage has been thereby occasioned. If it appears that such wrong or miscarriage affects part only of the matter in controversy, or some or one only of the parties, the Court may give final judgment as to part thereof, or some or one only of the parties, and direct a new trial as to the other part only, or as to the other party or parties . . . . . , 6.

New trial as to part.—A new trial may be ordered on any question, without interfering with the finding or decision on any other question . . . . . ,, 7.

Objection to stamp.—No new trial will be granted by reason of the ruling of any Judge that the stamp upon any document is sufficient, or does not require a stamp . . . . . ,, 8.

As to the grounds upon which a new trial will be directed, see Dan. Pr. 756—774; Chitty's Arch. 1210—1225 ; 1 Seton, 388; Ann. Pr. 413.

(*d*) See schedule of forms to County Court Rules, 1875, No. 103 ; and note (*a*), *supra*.

878.
Summons to enlarge time for moving for a new trial (*b*). [Dan. Pr. 775.]

Formal parts: see Form 43.
on the part of the plaintiff [*or as may be*], that the time limited by the Rules of the Supreme Court, Order XXXIX. rule 4, for the applicant to apply for a new trial of this action may be enlarged to the —— day of ——, 188— (*If the time has already expired, add:* notwithstanding the expiration of the time so limited).

879.
Notice of motion for a new trial (*c*). [Dan. Pr. 775, ccclxxxiii.]

Formal parts: see Form 38.
on behalf of the plaintiff [*or as may be*], that the findings of the jury [*or*, of the Judge] upon the trial of this action [*or*, of the issues of fact in this action—*or*, of the issues directed to be tried by the order dated the —— day of ——, 188—], and the judgment directed to be entered in this action may be set aside, and a new trial had between the parties, on the ground (*d*) that (*Here state concisely the grounds upon which the new trial is sought* (*e*)*; as thus:* the Judge having directed the jury that (*State misdirection*) misdirected the jury; *or*,
the evidence of (*State the evidence admitted or rejected*) was improperly admitted or rejected as evidence for the plaintiff [*or as may be*]; *or*,
the verdict was against the weight of evidence).

(*b*) See R. S. C. Ord. XXXIX. 4; and note (*a*), *supra*, for the times within which an application for a new trial must be made. The enlargement of the time for applying for a new trial is within the discretion of the Court under R. S. C. Ord. LXIV. 7: *Smith* v. *Smacksmen Insurance Co.*, 32 W. R. 184. Where the trial of the action has taken place in a County Court, under 19 & 20 Vict. c. 108, s. 26, the period within which an application for a new trial must be made, is governed by the old procedure before the Judicature Acts: *London* v. *Roffey*, 3 Q. B. D. 6; *Davis* v. *Godbehere*, 4 Exch. D. 215; *Swansea Building Society* v. *Davies*, 12 Q. B. D. 21: 32 W. R. 185. Such an application must be made within *four days* from the day of trial, or, if the cause is tried out of term, within the first four days of the next ensuing sittings: Reg. Gen. H. T. 1853, r. 50; see *Mathews* v. *Ovey*, 13 Q. B. D. 403; *Pritchard* v. *Pritchard*, 14 Q. B. D. 55: 33 W. R. 198. Where a motion for a new trial is to be made conditionally on the result of a case pending in the Court of Appeal, notice of motion should be given within the usual time, and application made to the Court to postpone the hearing, until after the decision of the Court of Appeal: *Peckett* v. *Short*, 32 W. R. 123.

(*c*) See R. S. C. Ord. XXXIX. 1; and note (*a*), *supra*. For forms of order for a new trial, see 1 Seton, 386, Nos. 1, 2, 3. After trial with a jury the application is to a Divisional Court of the Queen's Bench Division: after trial without a jury it is to the Court of Appeal. Where the action has been tried in a County Court under 19 & 20 Vict. c. 108, s. 26, the application for a new trial should be made to a Divisional Court, whether the trial has been with or without a jury: *The Swansea Co-operative Building Society* v. *Davies*, 12 Q. B. D. 21: 32 W. R. 185. Where an interpleader issue has been tried by a Judge and jury, the motion must be to a Divisional Court: *Robinson* v. *Tucker*, 32 W. R. 697 (overruling *Burstall* v. *Bryant*, 12 Q. B. D. 103).

(*d*) As to the grounds upon which a new trial may be granted, and as to the powers of the Court upon a motion for a new trial, see R. S. C. Ord. XXXIX. 6, 7; and note (*a*), *supra*. The provisions of r. 6 apply to appeals from the County Court: *Shapcott* v. *Chappell*, 12 Q. B. D. 58: 32 W. R. 183; but see *contra*, *Matthew* v. *Ovey*, 13 Q. B. D. 403.

(*e*) The grounds must be stated: see R. S. C. Ord. XXXIX. 3; and note (*a*), *supra*.

Section VII.—Assessment of Damages by Writ of Inquiry (*a*).

(*Dan. Pr.*, 781—784, cccIxxxiv.)

880.

Præcipe for writ of inquiry (*b*). [Dan. Pr. 781.]

(*Title and reference to the record.*)

Seal a writ of inquiry directed to the sheriff of —— to assess damages in this action ——.

Judgment dated —— day of ——, 188—.

Dated —— day of ——, 188—.

X. Y., of (*address*), Solicitor for the Plaintiff [*or as may be*].

881.

Writ of inquiry for assessment of damages (*c*). [Dan. Pr. 781.]

(*Title and reference to the record.*)

Victoria, by the Grace of God (*&c.: as in* Form 196), to the sheriff of ——, greeting. Whereas it has been adjudged that the plaintiff recover against the defendant damages to be assessed.

Therefore we command you, that by the oaths of twelve good and lawful men of your bailiwick you inquire what damages the plaintiff is entitled to recover under the said judgment, and that forthwith thereafter you send the inquisition which you shall take thereupon to our said Court, under your seal, and the seals of those by whose oaths you take the inquisition, together with this writ.

Witness (*&c.: as in* Form 196).

(*a*) *Writ of Inquiry.*—See R. S. C. Ord. XXXVI. 56, 57, 58. The provisions of R. S. C. Ord. XXXVI. 14, 15, 19, 34, 35, 36, and 37, apply to an inquiry pursuant to a writ of inquiry. As to the writ of inquiry to assess damages after interlocutory judgment in default of appearance, see R. S. C. Ord. XIII. 5, 6; and after interlocutory judgment in default of pleading: *Ibid.*, XXVII. 4, 6. As to proceedings upon a writ of inquiry, see Chitty's Arch. 807—824. For forms of proceedings on writ of inquiry, see Chitty's Forms, 672—678. In the last edition of this work, forms in connection with proceedings under a writ of inquiry were given: see Dan. Forms, 3rd Ed., Nos. 360—378. It is conceived, however, that such proceedings are rarely, if ever, taken in the Chancery Division, it being the usual practice in that Division to ascertain damages by inquiry at Chambers. The practitioner is therefore referred to the authorities above cited.

(*b*) See R. S. C. App. G., No. 12.

(*c*) See R. S. C. App. J., No. 8.

CHAPTER XVI.

JUDGMENTS AND ORDERS.

(*Dan. Pr.*, 785—954, cccLxxxiv.—cccxc.)

SECTION I.—FORM OF JUDGMENTS AND ORDERS.

(*Dan. Pr.*, pp. 785—800, cccLxxxiv.)

(*See* Forms 420, 421, 424, 426, 427, 428, 429.)

882. Judgment in default of appearance (*a*).

(*See* Forms 617, 618, 621, 622, 623, 624, 625.)

883. Judgment in default of defence (*b*).

(*Same as* Form 442.)

884. Judgment under R. S. C. Order XIV. (*c*.)

(*Same as* Form 446.)

885. Judgment for costs on payment of money into Court by defendant (*d*).

(*Same as* Form 466.)

886. Judgment for costs on confession of defence (*e*).

(*Same as* Form 635.)

887. Judgment for costs on notice to discontinue (*f*).

(*a*) See R. S. C. App. F., Nos. 1, 2, 3, 4.
(*b*) *Ibid.*, App. F., Nos. 1, 2, 4.
(*c*) *Ibid.*, App. F., No. 5.
(*d*) *Ibid.*, App. F., No. 16.
(*e*) *Ibid.*, App. F., No. 15.
(*f*) *Ibid.*, App. F., No. 14.

888.

Judgment at trial of action before a Judge without a jury (*g*).

In the High Court of Justice, 188—. B. No. (*Date*).
Chancery Division.
(*Name of Judge.*)
Between A. B. . . . . Plaintiff,
and
C. D. and E. F. . . . Defendants.

This action coming on for trial (the —— day of ——, 188—, and) this day before this Court in the presence of counsel for the plaintiff and the defendants,

If some of the defendants do not appear, say: for the plaintiff and the defendant C. D.: no one appearing for the defendants E. F. and G. H., although they were duly served with notice of trial, as by the affidavit of ——, filed the —— day of ——, 188—, appears,

upon reading the probate of the will of ——, the answers of the defendants C. D., E. F., and G. H. to interrogatories, the admission in writing dated ——, and signed by Mr. ——, the solicitor for the plaintiff A. B., and by Mr. ——, the solicitor for the defendant C. D., the affidavit of ——, filed the —— day of ——, the affidavit of ——, filed the —— day of ——, the evidence of ——, taken on their oral examination at the trial, and an exhibit marked X, being an Indenture dated, &c., and made between (*State parties*), and what was alleged by counsel on both sides [*or*, for the plaintiff and the defendant C. D.]: This Court doth declare, &c. And this Court doth order and adjudge, &c.

888 a.

Judgment after trial by the Court without a jury (*gg*).

(*Heading as in* Form 888.)

This action having, on the —— day of ——, 188—, been tried before ——, and the said ——, on the —— day of ——, 188—, having ordered that judgment be entered for the plaintiff [*or as may be*] for £——: It is this day adjudged that the plaintiff [*or as may be*] recover from the defendant [*or as may be*] £—— and costs to be taxed.

The above costs have been taxed and allowed at £——, as appears by a taxing officer's certificate dated the —— day of ——, 188—.

Judgment entered the —— day of ——, 188—.

889.

Judgment at trial of action before a Judge with a jury (*h*).

(*Heading as in* Form 888.)

This action having on the —— and —— days of ——, 188—, been tried before the Honourable Mr. Justice —— with a special [*or*, common] jury of the county of ——, and the jury having found (*State*

(*g*) See R. S. C. App. F., No. 6; 1 Seton, 15, No. 1. For other forms, see 1 Seton, 15, No. 2; 389, No. 1.

(*gg*) See R. S. C. App. F., No. 11.

(*h*) *Ibid.*, App. F., No. 7.

findings, as in officer's certificate), and the said Mr. Justice —— having ordered that judgment be entered for (*State what judgment the Judge directed to be entered, as in the officer's certificate*): Therefore it is adjudged that

the plaintiff recover against the defendant £——, and £—— for his costs of action. *Or*,

the plaintiff recover nothing against the defendant, and that the defendant recover against the plaintiff £—— for his costs of defence.

Or as the case may be (*according to the officer's certificate*).

The above costs have been taxed and allowed at £——, as appears by a taxing officer's certificate dated the —— day of ——, 188—.

890. Judgment after trial before a referee (*i*).

(*Same as* Form 873.)

891. Judgment after trial of questions of account by a referee (*j*).

(*Same as* Form 874.)

892. Judgment in pursuance of order (*k*).

(*Heading as in* Form 888.)

Pursuant to the order of Mr. Justice ——, dated ——, 188—, whereby it was ordered (*Set out ordering part of the order*), and default having been made (*State by whom default made and in what particulars, unless the order directs a judgment absolutely: in which case omit the words* "and default having been made"):

It is this day adjudged that the plaintiff recover against the said defendant £——, and costs to be taxed.

The above costs (*&c.: as in* Form 889).

893. Judgment on certificate of registrar of County Court (*l*).

(*Heading as in* Form 888.)

The —— day of ——, 188—.

This action having been ordered, under section 26 of the County Court Act, 1856 (19 & 20 Vict. c. 108), to be tried in the County Court of ——, and the registrar of that court having certified that the result was (*Here state the substance of the registrar's certificate*):

It is this day adjudged that the plaintiff [*or as may be*] recover against the defendant [*or as may be*] £——, and costs to be taxed.

The above costs (*&c.: as in* Form 889).

(*i*) See R. S. C. App. F., No. 8.
(*j*) *Ibid.*, App. F., No. 9.
(*k*) *Ibid.*, App. F., No. 12.
(*l*) *Ibid.*, App. F., No. 13.

894.
Judgment upon motion for judgment (*m*).

(*Heading as in* Form 888.)

Upon motion for judgment this day made unto this Court by counsel for the plaintiff [*or as may be*], and upon hearing counsel for the defendant [*or as may be*]: This Court doth order and adjudge, &c.

895.
Judgment on motion for judgment after trial of issues of fact (*n*).

(*Heading as in* Form 888.)

The issues [*or*, questions] of fact arising in this action (*If directed to be tried by an order, add:* by the order dated the —— day of ——, 188—, ordered to be tried before (*State whom, as in the order*)), having on the —— day of ——, 188—, been tried before (*State whom*) accordingly, and the jury [*or as may be*] having found (*State the findings, as in the Officer's or Referee's certificate*); Now on motion for judgment this day made unto this Court by counsel for the plaintiff [*or*, defendant], and upon hearing counsel for the defendant [*or* plaintiff], and upon reading the said order and the certificate of the Officer [*or*, of the said Mr. ——], dated the —— day of ——, 188—: this Court doth order and adjudge, &c.

896.
Judgment upon motion under Ord. XL. 2 (*o*).

(*Heading as in* Form 888.)

This action having on the —— day of ——, 188—, been tried before (*State whom*), and the jury [*or as may be*] having found (*State the findings as in the certificate of the Officer, Associate, or Referee*) and the Judge [*or*, the said Mr. ——] not having thought fit to order any judgment to be entered: Now upon motion for judgment this day made unto this Court by counsel for the plaintiff [*or*, defendant], and upon hearing counsel for the defendant [*or*, plaintiff], and upon reading the certificate of the Officer [*or*, Associate; *or* of the said Mr. ——], dated the —— day of ——, 188—: this Court doth order and adjudge, &c.

897.
Judgment for plaintiff, in default of appearance by defendant at the trial (*p*).

(*Heading as in* Form 888.)

This action coming on for trial this —— day of ——, 188—, in the presence of counsel for the plaintiff, no one appearing for the defendant although he has been duly served with notice of trial, and upon hearing counsel for the plaintiff: This Court doth order that the plaintiff do recover against the defendant £——, with costs to be taxed [*or as may be*].

(*m*) See 1 Seton, 38, No. 1. For another form, see R. S. C. App. F., No. 10. For forms of judgment upon motion for judgment under R. S. C. Ord. XXVII. 11, 12, see 1 Seton, 38, Nos. 2, 3, 4.

(*n*) See 1 Seton, 394, No. 7; *Ibid.*, 389, No. 2: see also R. S. C. App. F., No. 18.

(*o*) See 1 Seton, 394, No. 6: see also R. S. C. App. F., No. 17.

(*p*) See R. S. C. Ord. XXXVI. 31.

898. Judgment for defendant dismissing action where plaintiff does not appear (*q*).

(*Heading as in* Form 888.)

This action coming on for trial this day before this Court in the presence of counsel for the defendant, no one appearing for the plaintiff, although the defendant has been served by the plaintiff with notice of trial; and upon hearing counsel for the defendant; This Court doth order that this action do stand dismissed out of this Court, with costs to be taxed.

Section II.—Drawing up, Passing, and Entering Judgments and Orders (*a*).

(*Dan. Pr.*, pp. 800—818, cccLxxxiv.—cccLxxxv.)

(*a*) *Entry of Judgment.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Mode of entry.—Every judgment must be entered by the proper officer. The party entering must deliver a copy of the whole of the pleadings, in print, except as to such parts as under the R. S. C. may be written: no copy need be delivered of any document of which a copy has been delivered on entering any previous judgment in the action	XLI. 1.
Date of judgment pronounced in Court.—In such case the entry of the judgment will be dated as of the day on which it is pronounced, and the judgment will take effect from that date: by special leave a judgment may be ante-dated or post-dated .	,, 3.
Date in other cases.—The entry will be dated as of, and the judgment will take effect from, the day on which the requisite documents are left with the proper officer	,, 4.
Time to be stated for doing any act ordered to be done.—Every judgment or order requiring any person to do an act thereby ordered must state the time, or the time after service of the judgment, &c., within which the act is to be done, and a memorandum in the prescribed form must be indorsed on the copy served upon the person required to obey the judgment, &c. .	,, 5.
Entry on filing of affidavit, &c.—Where judgment has to be entered upon the filing of any affidavit or production of any document, the officer will examine such affidavit or document, and if the same is regular, he will enter judgment . . .	,, 6.
Entry on production of order or certificate.—Where judgment has to be entered pursuant to any order or certificate, or return to any writ, the production of such order or certificate duly sealed, or of such return, will be a sufficient authority for entry of the judgment	,, 7.
On reference to a master.—His certificate must be filed in the Central Office when final judgment is entered	,, 8.
Judgment by consent.—(1.) Where defendant appears by solicitor, the consent must be given on his behalf by such solicitor	,, 9.
(2.) Where defendant has not appeared, or has appeared in person, he must attend before a judge and give his consent in person, or his written consent must be attested by a solicitor acting in his behalf, unless defendant is a barrister, conveyancer, special pleader, or solicitor	,, 10.
Entry in District Registry.—In causes proceeding in a Registry, judgment will be entered there	XXXV. 2.
Where a judgment is directed to be entered in the Central Office, an office copy must be transmitted to the District Registry for filing	,, 3.

(*q*) See R. S. C. Ord. XXXVI. 32; 2 Seton, 1543, No. 3.

Mode and place of entry.—In the Chancery Division judgments are entered by the Registrar, who is "the proper officer" within R. S. C. Ord. XLI. 1 (see *supra*). As to the proceedings on entry of default judgments, see 1 Seton, 12—14; and in other cases, 2 Seton, 1545—1547; Dan. Pr. 800—810. On entering a judgment, when drawn up by the Chancery Registrars, the engrossment of the judgment together with the pleadings to be filed must be brought to the Writ, Appearance and Judgment Department in the Central Office; and the officer receiving the same will make a note in the margin of the engrossment that the pleadings have been filed, and will authenticate such note with the small seal of the office, and return the engrossment to the solicitor.—The date of the judgment, as shown by the engrossment of the order, and the date of leaving the pleadings, will be entered in the cause book. The solicitor on leaving the pleadings must indorse thereon and sign a certificate in the words or to the effect following:—"I certify that these are all the pleadings required to be left for filing."—Where judgment is signed under R. S. C. Ord. XLI. 6, 7, on any order, certificate, or other document, such document must be filed: Rules of Practice Masters, 1880, 1881, 1882. On entering a judgment (if made in Court on the original hearing, or hearing on further consideration), a fee of £1 is payable: if the judgment is made without a hearing in Court, the fee is 10*s*. These fees are payable by stamps impressed on the judgment: Ord. as to S. C. Fees, 1884, Sch. Nos. 57, 58; Ord. as to Fees, &c., July, 1884, p. 9.

Proceedings in the Office of the Chancery Registrars (*b*).

(*b*) *Registrars of the Chancery Division.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Attendance on the Judges.—The Registrars attend the Judges in the Chancery Division, and the Court of Appeal upon the hearing of appeals from that Division, in rotation	LXII. 1.
Entry of judgments, &c.—All judgments and orders drawn up by the Registrars must be entered by the entering clerks without abbreviations under the direction of the Senior Registrar, within *one clear day* after being left for entry: calendars and indexes of such entries are to be kept	,, 2, 3,
Bespeaking judgment.—The party bespeaking must leave with the Registrar his brief and other necessary documents, within *seven days* after judgment is pronounced; otherwise the Registrar may decline to draw it up without special leave .	,, 4—6.
Appointment to settle.—On delivering out the draft of any judgment, &c., which requires to be settled in the presence of the parties, the Registrar is to deliver a written appointment to settle the same; which must be served on the opposite party *one clear day* at least before the time fixed for settling, by being left at the address for service of such party, or being sent by post to him there; of which service the Registrar will satisfy himself in such manner as he may think fit	,, 7—10.
Appointment to pass.—When the draft has been settled, the Registrar is to name a time in the presence of the parties, or deliver an appointment in writing of the time for passing the judgment, &c., which must be served as above mentioned .	,, 11.
Default of attendance, adjournment, &c.—The Registrar may proceed in the absence of any party failing to attend the appointments, may dispense with the production of the briefs, &c.; may adjourn the appointments; and may settle and pass the judgment, &c., without any appointment	,, 12—14.
Certificate for special allowance.—The Registrar will, on request, certify whether in his opinion any special allowance ought to be made on taxation for the costs of settling and passing	,, 15.

	Order.
Orders dealing with funds in Court.—Must be drawn up in accordance with Chancery Funds Rules (now regulated by S. C. Funds Rules, 1884)	LXII. 16.
Lists of causes, &c.—The Registrars are to keep distinct lists of the causes or matters set down for hearing before each Judge of the Chancery Division	,, 17.
Answering petitions, &c.—Petitions which require to be answered are answered in the name of the Senior Registrar: orders on petitions of course are drawn up, passed and entered by or under the direction of the Registrars	,, 18.

899.

Registrar's appointment to settle draft of, or to pass, a judgment (*e*). [Dan. Pr. 804, 807.]

In the High Court of Justice,
Chancery Division.

Registrars' Chambers,
Royal Courts of Justice,
Room ——.

I have appointed —— the —— day of ——, 188—, at —— o'clock in the —— noon, to settle the draft of [*or*, to pass] the judgment [*or*, order] pronounced on the —— day of ——, 188—.

Dated the —— day of ——, 188—.

G. L., Registrar.

900.

Notice of motion for counsel's brief to be produced within a limited time (*d*). [Dan. Pr. 805.]

Formal parts: see Form 38.

on the part of the plaintiffs, that unless the defendant A. B., or his solicitor, do, on or before the —— day of ——, produce to the Registrar the brief of the counsel for the said defendant A. B., on the trial of this action [*or as may be*], the Registrar may be ordered to draw up the judgment in this action without the production of such brief.

901.

Notice of motion to vary minutes (*e*). [Dan. Pr. 805.]

Formal parts: see Form 38.

on the part of the plaintiff [*or*, defendant A. B.], that the minutes of the judgment [*or*, order] pronounced in this action by Mr. Justice —— on the —— day of ——, 188—, as given out by the Registrar, may be varied or altered in the respects following, namely: (*Specify the particular matter to be added, or altered*).

902.

Notice of motion to return engrossment of judgment or order. [Dan. Pr. 808.]

Formal parts: see Form 38.

on the part of the plaintiff, that Mr. A. B., the solicitor in this cause for the defendant C. D. [*or as may be*], may be ordered, within —— days, to produce to, and leave with G. L., esquire, one of the Regis-

(*c*) See R. S. C. Ord. LXII. 7, 11; and note (*b*), *supra*. This form of appointment was prescribed by Cons. Ord. I. 29; but is no longer compulsory.

(*d*) See *Yeatman* v. *Read*, 14 W. R. 123, V. C. K.; and see R. S. C. LXII. 14; and note (*b*), *supra*.

(*e*) On the application a copy of the note in the Registrar's minute book should be produced: *Robinson* v. *Local Board of Barton*, 21 Ch. D. 621. As to withdrawing a consent to a judgment, &c., before it is drawn up, see *Harvey* v. *Croydon Union Sanitary Authority*, 26 Ch. D. 249; 32 W. R. 389.

trars of the Supreme Court, the engrossment prepared in the office of the said Registrar of the judgment [*or*, order] pronounced in this action by Mr. Justice ——, on the —— day of ——, 188—: in order that the same may be duly passed and entered; and that the said A. B. may be ordered to pay the costs of this application.

903.
Memorandum for entry of judgment or order *nunc pro tunc* (*f*). [Dan. Pr. 810, cccIxxxv.]

(*Short title and reference to the record.*)

The order herein dated the —— day of ——, 188—, is to be entered *nunc pro tunc*.

Dated the —— day of ——, 188—.

G. L.,
Registrar.

Section III.—Setting Aside and Rectifying Judgments and Orders (*g*).

(*Dan. Pr.*, pp. 818—823, cccIxxxv.)

904.
Notice of motion or summons to rectify a judgment or order (*h*). [Dan. Pr. 822.]

Formal parts: *see* Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that the judgment pronounced [*or*, the order made] in this action on the —— day of ——, 188—, may be rectified or corrected in the following respects; namely: (*Here specify the corrections desired*).

905.
Motion paper for the like (*h*). [Dan. Pr. 822.]

Formal parts: *see* Form 36.

To move on behalf of the plaintiff [*or as may be*], that the judgment pronounced [*or*, the order made] in this action on the —— day of ——, 188—, may be rectified or corrected in the following respects; namely: (*Here specify the corrections desired*).

(*f*) See R. S. C. Ord. LII. 15. No order to enter a judgment or order *nunc pro tunc* is now required, but the memorandum in the text (which must be countersigned by the Registrar) is substituted. A fee of 5*s.* is payable on the memorandum by a stamp impressed thereon: see Ord. as to S. C. Fees, 1884, Sched. No. 68; Ord. as to Fees, &c., July, 1884, p. 9.

(*g*) *Setting aside judgments.*—A judgment which has been entered for default in entering an appearance, or in pleading, or where a party does not appear at the trial, may be set aside: See R. S. C. Ord. XIII. 10: XXVII. 15: XXXVI. 33. For forms of application to set aside judgments by default, when regularly entered, see Forms 433 and 630. For forms of application to set aside judgments by default for irregularity, see Forms 435 and 632. For form of application to set aside a judgment for default of appearance at the trial, see Form 836.

Rectifying judgments.—Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court or a Judge on *motion or summons* without an appeal: R. S. C. Ord. XXVIII. 11.

(*h*) See R. S. C. Ord. XXVIII. 11.; and note (*g*), *supra*; 2 Seton, 1547, 1548; *Re Clinton, Jackson* v. *Slaney*, W. N. (1882), 176; *In re Riley's Trusts*, 30 W. R. 78; *In re Pilling's Trusts*, 26 Ch. D. 432; 32 W. R. 853; *Eckersley* v. *Eckersley*, 28 Sol. J. 533.

Section IV.—Enforcing the Execution of Judgments and Orders (*a*).

(*Dan. Pr.*, pp. 823—954, ccclxxxv.—cccxc.)

(*a*) *Summary of Various Modes of enforcing Judgments.*

A. *Against property:*—

(1.) Personal property—by writ of *fi. fa.*, and other writs in aid thereof.

(2.) Real property—by writ of *elegit;* or sale of the debtor's interest in the land.

(3.) Property, real and personal—by writ of sequestration; or, if equitable only, by appointment of a receiver.

(4.) Stock or shares, &c.—by charging order.

B. *Against the person.*—By (*a*) writ of attachment, (*b*) order of committal.

Judgment for recovery by, or payment of money to any *person* may be enforced by any of the modes by which a judgment for payment of money might have been enforced at the time of the passing of the Judicature Act, 1873, by any Court whose jurisdiction is transferred by such Act: see 2 Seton, 1555, 1556.

Judgment for payment of money *into Court* may be enforced by

			(*a*) Sequestration.
	or where attachment is authorised	,,	(*b*) Attachment.
,,	for recovery of land:	,,	Writ of possession.
,,	for recovery of property, other than land or money	,,	(*a*) Writ of delivery. (*b*) Attachment. (*c*) Sequestration.
,,	requiring any person to do any act other than payment of money, or to abstain from doing any act	,,	(*a*) Attachment. (*b*) Committal.

An order to do any act may also be enforced by sequestration.

See Dan. Pr. 823—825; 2 Seton, 1555—1559, where will be found a very complete table showing the various modes of enforcing judgments and orders. As to execution generally, see Chitty's Arch. 507—550.

(1.) *Generally* (*b*).

(*Dan. Pr.*, pp. 823—848, ccclxxxv.—ccclxxxvii.)

(*b*) *Execution generally.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Effect of service of order.—Where any person is by judgment or order directed to pay any money, or to deliver up or transfer any property to another, no demand is necessary, but the person so directed must obey such judgment, &c., on being served therewith	XLII. 1.
Conditional judgment.—A judgment obtained upon condition will be considered as waived or abandoned, if such condition is not complied with	,, 2.
Judgment for payment of money.—May be enforced by any of the modes in use prior to the passing of the Judicature Act, 1873 (see note (*a*), *supra*)	,, 3.
Judgment for payment into Court.—May be enforced by writ of sequestration, or (where authorised by law) by attachment (see note (*a*), *supra*)	,, 4.
Judgment for recovery of land.—May be enforced by writ of possession (see note (*a*), *supra*)	,, 5.
For recovery of other property.—May be enforced by (*a*) writ of delivery, (*b*) writ of attachment, (*c*) writ of sequestration (see note (*a*), *supra*)	,, 6.
Judgment to do or abstain from any act.—May be enforced by writ of attachment, or by committal (see note (*a*), *supra*) . .	,, 7.

ORDER.

Meaning of terms.—The term "writ of execution" includes writs of *fi. fa.*, *capias*, *elegit*, sequestration, and attachment, and all subsequent writs in aid thereof. The term "issuing execution against any party" means issuing such process against his person or property as under the rules is applicable . XLII. 8.

Execution of Judgment on condition.—The party entitled may, upon the fulfilment of the condition, apply for leave to issue execution. The Court or a Judge may either order execution to issue, or direct any issue or question necessary for the determination of the rights of the parties to be tried in any of the ways in which questions arising in an action may be tried . ,, 9.

Execution against partners.—Execution may issue, (*a*) against any property of the partnership; (*b*) against any person who has appeared in his own name under Ord. XII. 15, or who has admitted on the pleadings that he is, or has been adjudged to be, a partner; (*c*) against any person who has been served, as a partner, with the writ, and has not appeared. If execution is claimed against any other person as being a member of the firm, leave must be applied for to the Court or a Judge, who may give such leave, if the liability is not disputed, or, if disputed, may order the liability to be tried and determined . ,, 10.

Production of judgment.—No writ of execution may be issued without the production of the judgment or order, or an office copy thereof, showing the date of entry . . . . . ,, 11.

Præcipe for writ.—No writ may be issued without a *præcipe* being filed, which must contain the title of the action, the reference to the record, the date of the judgment, and of the order, if any, directing execution, the names of the parties against whom, or of the firm against whose goods, the execution is to be issued. It must be signed, by or on behalf of the solicitor or party issuing it, and must be in the prescribed form (R. S. C. App. G.) . . . . . ,, 12.

Indorsement on writ.—Every writ of execution must be indorsed with the name and address of the solicitor suing out the same, and of the principal solicitor, if the solicitor suing it out does so as agent. If no solicitor, then it must be indorsed with a memorandum expressing that the same has been sued out by the plaintiff or defendant in person, as the case may be, mentioning the city, town, or parish, and also the name of the hamlet, street, and number of the house of such plaintiff's or defendant's residence . . . . . ,, 13.

Date and form of writ.—Every writ of execution must bear date of the day on which it is issued. It must be in the prescribed form (R. S. C. App. H.) . . . . . ,, 14.

Expenses of execution.—Poundage, fees, and expenses of execution may be levied . . . . . ,, 15.

Indorsement of amount to be recovered.—Every writ of execution for recovery of money must be indorsed with a direction to levy the amount really due with interest at £4 per cent. per annum from judgment, or, where there is an agreement between the parties for more than £4 per cent. interest, then for the amount of interest so agreed . . . . . ,, 16.

Time to sue out fi. fa. or elegit.—Every person to whom any sum of money or costs is or are payable under a judgment or order, may, so soon as the same is or are payable, sue out one or more writ or writs of *fi. fa.* or *elegit;* but (*a*) if the judgment, &c., is for payment within a period therein mentioned, no writ must be issued until after the expiration of such period; (*b*) execution may be stayed until such time as the Court or a Judge shall think fit . . . . . ,, 17.

Separate writs.—There may be separate writs, for recovery of the money due, and of the costs; but a second writ can only be for costs, and must be issued not less than *eight days* after the first . . . . . ,, 18.

ORDER.

Time for execution.—Execution on a judgment, not being one for payment of money or costs, or for the recovery of land, may issue in *fourteen days*, unless earlier execution is ordered . . XLII. 19.

Renewal of writ.—A writ of execution remains in force for *one year* only, but may be renewed, before its expiration, by special leave for *one year* from each successive renewal, either by being marked with a seal of the court bearing the date of renewal, or by notice to the sheriff, bearing the like seal; a writ so renewed has effect, and is entitled to priority, according to the time of the original delivery thereof. Production of the writ or notice marked with the seal is sufficient evidence of renewal ,, 20, 21.

Execution to issue within six years.—As between the original parties to a judgment or order, execution may issue at any time within *six years* from recovery of judgment or date of order . ,, 22.

Leave to issue, where required.—Leave is required in the cases following, viz., (*a*) after lapse of *six years* from the date of the judgment, or where any change has taken place by death or otherwise in the parties entitled or liable to execution; (*b*) where a husband is entitled or liable to execution upon a judgment for or against a wife; (*c*) where a party is entitled to execution upon a judgment of assets *in futuro;* (*d*) where a party is entitled to execution against any of the shareholders of a joint-stock company upon a judgment recorded against such company, or against a public officer or other person representing such company. The Court or a Judge may either give leave or may order any issue or question necessary to determine the rights of the parties to be tried . . . . . ,, 23.

Orders enforceable like judgments.—Every order may be enforced against all parties bound thereby in the same manner as a judgment . . . . . ,, 24.

Order of commitment under the Debtors Act.—Must bear date on the day on which the order is made, and continue in force for one year, but may be renewed . . . . . ,, 25.

Execution by or against a person not a party.—May be enforced in the same manner as in the case of parties, &c. . . ,, 26.

Application to stay execution.—Any party against whom judgment has been given may apply for a stay of execution or other relief against such judgment, upon the ground of facts which have arisen too late to be pleaded . . . . . ,, 27.

Saving of previous rights.—No right before existing to enforce or give effect to any judgment in any manner or against any person or property whatsoever is taken away or curtailed by these rules . . . . . ,, 28.

Order of issue of writs.—Nothing in the order is to affect the order in which writs of execution may be issued . . . . ,, 29.

Court may order an act to be done at expense of the party refusing.—If a mandamus, mandatory order, injunction, or judgment for specific performance of any contract, is not complied with, the Court or a Judge may direct the act required to be done, to be done by the party obtaining the judgment, &c., at the cost of the disobedient party . . . . . ,, 30.

Enforcing judgment against a corporation.—Any judgment, &c., against a corporation wilfully disobeyed, may, by special leave, be enforced by (*a*) sequestration against the corporate property; (*b*) attachment against the directors, or other officers thereof; (*c*) sequestration against their property . . . ,, 31.

Discovery in aid of execution:—

(*a.*) *On a judgment for recovery or payment of money.*—An order may be made on the application of the person entitled to the judgment, &c., for oral examination of the debtor as to debts owing to him, and as to his means of satisfying the judgment; and production of books or documents may also be ordered . . ,, 32.

(*b.*) *On a judgment other than for money.*—If any difficulty

	ORDER.
arise in the execution or enforcement thereof, an order may be made for the attendance and examination of any party or otherwise	XLII. 33.
The costs of any application under rules 32 and 33 and of proceedings thereunder are in the discretion of the Court or a Judge, or of the officer appointed to take the examination, if the Court or Judge shall so direct	,, 34.

Execution in the District Registry.—Where a cause or matter is proceeding in a District Registry, all writs of execution for enforcing any judgment or order, and all summonses under the Debtors Act, 1869, must issue from such Registry. Proceedings necessary or incidental to judgments must be taken in the Registry . . . . . XXXV. 4, 5.

Equitable Execution.—On an application for appointment of a receiver by way of equitable execution, regard is to be had to the amount of the debt, the amount which may probably be obtained by the receiver, and the probable costs of the appointment (R. S. C. Oct. 1884, 12) . . . . . L. 15*a*.

906.

Motion paper, notice of motion, or summons for leave to issue execution (*d*). [Dan. Pr. 825, 826, 831—833, cccIxxxv.—cccIxxxvii.]

(A.) *Leave to issue Execution* (*c*).

(*Title and reference to the record.*)

If the application is made by ex parte motion, say:

To move on behalf of

If the application is made by motion on notice, say:

Take notice, *&c.; Continue as in* Form 38 *to* on the part of

If the application is made by summons, say: Let all parties, *&c.; Continue as in* Form 43 *to* on the part of

In any case continue thus: the above-named plaintiff

[*Or*, of P. Q. and R. S., the legal personal representatives of the plaintiff A. B., since deceased—*or as may be*];

that he [*or*, they] may be at liberty to issue execution against the defendant C. D.

[*Or*, against X. Y. and T. Z., as legal personal representatives of the defendant C. D., since deceased; *or*,

against X. Y., as being a member of the above-named firm of D. & Company—*or as may be*]

upon the judgment [*or*, order] in this action dated the —— day of ——, 188—.

Dated (*&c.: Conclude in the case of a notice of motion or summons, as in* Form 38 *or* 43).

(*c*) *Leave to issue execution.*—As to the cases in which leave is required, see R. S. C. Ord. XLII. 9, 10, 23, 31; and note (*b*), *supra*. As to leave to issue execution, see Dan. Pr. 831—833; Chitty's Arch. 924—933; 2 Seton, 1559; Chitty's Forms, 457—459, 515, 521. As to the power to direct the determination of questions affecting the rights of the parties, where the right to issue execution or the liability to execution is disputed, see R. S. C. Ord. XLII. 9, 10, 23; and note (*b*), *supra*. Where a sole plaintiff dies after judgment in his favour, but before execution, leave to issue execution may be obtained *ex parte*: *Mercer* v. *Lawrence*, 26 W. R. 506.

(*d*) As to the meaning of the term "issuing execution against a party," see R. S. C. Ord. XLII. 8; and note (*b*), *supra*.

907.

Notice of motion for leave to issue execution under 7 Geo. 4, c. 46, s. 13 (*e*). [Dan. Pr. 832, note (*m*).]

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff,
and
C. D., a registered public officer of the R. Banking Company . . . . Defendant.

Whereas by a judgment [*or*, order] of the High Court of Justice made in the above action, and dated the —— day of ——, 188—, it was adjudged [*or*, ordered] that the above-named plaintiff A. B. should recover against the above-named defendant C. D., as the registered public officer of the R. Banking Company, being a corporation or co-partnership duly constituted and carrying on the business of banking under the statute 7 Geo. IV. c. 46, the sums of £—— and £—— (*State the amounts, as in the judgment or order*). And whereas execution upon the said judgment has been issued against the members for the time being of the said R. Banking Company, but such execution has been ineffectual for obtaining payment and satisfaction of the amount of the said judgment. And whereas you were a member of the said R. Banking Company at the time when the contract upon which the said judgment was obtained was entered into [*or*, after the time at which the contract upon which the said judgment was obtained was entered into, and before the time at which the said contract was executed—*or*, at the time when the said judgment was obtained]. Now take notice, that this Honourable Court will be moved before his lordship Mr. Justice ——, on —— day, the —— day of ——, 188—, or so soon thereafter as counsel can be heard, by counsel on behalf of the above-named plaintiff, for liberty to issue execution against you upon the said judgment.

Dated —— day of ——, 188—.

X. Y., of (*address*),
Plaintiff's solicitor.

To E. F., of, *&c.*

908.

Affidavit in support.

Formal parts: see Form 6.

1. (*State the recovery of judgment against the registered public officer upon a contract or engagement entered into with the banking company.*)

2. (*Show that execution has been issued upon the judgment, and that all reasonable efforts have been made to obtain satisfaction from the present*

(*e*) See R. S. C. Ord. XLII. 23 (*d*); and note (*b*), *supra*; 7 Geo. IV. c. 46, s. 13, which provides that the execution shall not be issued without leave first granted, *on motion in open Court*, by the Court in which the judgment was obtained, on notice to the person sought to be charged. No such application can be made after the expiration of three years next after the person sought to be charged has ceased to be a member of the corporation or co-partnership: see Chitty's Arch. 980—983; Chitty's Forms, 517, 518.

members of the company, and that, notwithstanding, the judgment remains unsatisfied in the whole or in part.)

3. (*Show that the company was constituted under the Act, and that the person against whom the application is made was a member of the company at one of the times mentioned in the Act.*)

909.

Notice of motion or summons for leave to issue execution against a member of a banking company after judgment against public officer (*f*).

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that he may be at liberty to issue execution against G. H. (*member of the company*), upon the judgment dated the —— day of ——, 188—, recovered by the applicant against the above-named defendant C. D. as the registered public officer [*or*, one of the registered public officers] of the —— Banking Company; and that the costs of this application may be taxed, and that the applicant may be at liberty to add the amount thereof to his judgment debt and to issue execution therefor against the said G. H.

910.

Affidavit in support.

Formal parts: see Form 6.

1. (*State the recovery of judgment against the registered public officer.*)

2. (*Show that the judgment is still unsatisfied.*)

3. (*Show that the person against whom the application is made is a member of the company.*)

911.

Notice of motion for leave to issue execution under 8 & 9 Vict. c. 16, s. 36 (*g*). [Dan. Pr. 832, note (*m*).]

188—. B. No. . .

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff,
and
The R. Company . . . Defendants.

Whereas by a judgment [*or*, order] of the High Court of Justice made in this action, and dated the —— day of ——, 188—, it was adjudged [*or*, ordered] that the above-named plaintiff A. B. should recover against the above-named defendants, the R. Company, being a company duly incorporated and to which the provisions of the statute 8 & 9 Vict. c. 16, apply, the sums of £—— and £—— (*State the amounts, as in the judgment or order*). And whereas execution has been issued against the

(*f*) See R. S. C. Ord. XLII. 23 (*d*); and note (*b*), *supra*. As to banking companies suing in the name of a public officer, see 7 Geo. IV. c. 46, s. 9; 27 & 28 Vict. c. 32; and as to companies established by letters patent suing by a public officer, see 7 Will. 4 & 1 Vict. c. 73, s. 3; and as to execution against shareholders in such a company: *Ibid.*, s. 24. As to proceedings in such cases, see Chitty's Arch. 976—986; Chitty's Forms, 514—520.

(*g*) See R. S. C. Ord. XLII. 23 (*d*); 8 & 9 Vict. c. 16, s. 36, which provides that the application shall be made by *motion in open Court*: see Chitty's Arch. 968—972; Chitty's Forms, 521—526.

property and effects of the said R. Company, but there cannot be found sufficient whereon to levy such execution. And whereas you are a holder of —— shares in the capital of the said company, upon which the sum of £—— remains to be paid to the said company. Now take notice, that this Honourable Court will be moved before his lordship Mr. Justice ——, on —— day of ——, 188—, or so soon thereafter as counsel can be heard, by counsel on behalf of the above-named plaintiff, for liberty to issue execution against you upon the said judgment to the extent of the said sum of £——, being the amount of capital so as aforesaid remaining to be paid upon the said shares held by you as aforesaid.

Dated —— day of ——, 188—.

X. Y., of (*address*),
Solicitor for the plaintiff.

To E. F., of, *&c.*

912.
Affidavit in support.

Formal parts: see Form 6.

1. (*State the recovery of judgment against the company.*)

2. (*Show that execution has been issued against the company, and that all reasonable efforts have been made to obtain satisfaction of the judgment, and that, notwithstanding, the judgment remains unsatisfied in the whole or in part.*)

3. (*Show that the company is within the provisions of* 8 *&* 9 *Vict. c.* 16, *that the person against whom the application is made holds shares in the company, the number of such shares, and the amount of capital remaining unpaid thereon.*)

(B.) *Application to Stay Execution.*

913.
Notice of motion or summons to stay execution (*h*).
[Dan. Pr. 834, ccclxxxvii.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant C. D. [*or as may be*], that execution upon the judgment [*or*, order] in this action dated the —— day of ——, 188—, may be stayed until (*State when*).

914.
Notice of motion or summons to enlarge time for obeying any judgment or order, and to stay execution in the meantime.
[Dan. Pr. 879.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant C. D. [*or as may be*], that the time limited by the judgment [*or*, order] dated the —— day of ——, 188—, for the applicant to (*Describe the act directed by the judgment or order to be done; see* Form 986) may be enlarged to the —— day of ——, 188—; and that in the meantime execution upon the said judgment [*or*, order] may be stayed.

(*h*) See R. S. C. Ord. XLII. 17; and note (*b*), *supra*. As to stay of execution, see Chitty's Arch. 510.

915.

Notice of motion to stay execution pending appeal (*i*). [Dan. Pr. 1281.]

Formal parts: see Form 38.

on the part of the defendant C. D. [*or as may be*], that execution and all other proceedings upon or under the judgment [*or*, order] in this action dated the —— day of ——, 188—, may be stayed until after the hearing of the said defendant's motion by way of appeal from the said judgment [*or*, order], of which notice was served on the —— day of ——, 188—.

916.

Notice of motion or summons to stay execution and all other proceedings in the action (*j*). [Dan. Pr. 334.]

Formal parts: see Form 38 *or* 43

on the part of the defendant C. D. [*or as may be*], that execution upon the judgment in this action dated the —— day of ——, 188—, and all other proceedings in this action may be stayed on the ground that (*State facts which have arisen too late to be pleaded by the applicant, rendering it just that execution should be stayed, or other relief given*).

(C.) *Registration of Judgments* (*k*).

917.

Memorandum for registry or re-registry of a judgment (*l*). [Dan. Pr. 841—843.]

Filed (*m*) for registration ——, of ——, 188—.

by A. B., of (*Place of business*), Plaintiff's Solicitor [*or as may be*].

JUDGMENT OR ORDER (*n*).

A judgment [*or*, an order] of the Chancery Division of the High Court of Justice, dated the —— day of ——, 188— (*o*).

Title of the cause or matter in which the same has been obtained:

John Jones *v.* Edward James Brown.

(*i*) An appeal does not operate as a stay of execution, except so far as the Court appealed from, or any Judge thereof, or the Court of Appeal may order: R. S. C. Ord. LVIII. 16; see Dan. Pr. 1277—1282; and Chap. XX. *post*.

(*j*) See R. S. C. Ord. XLII. 27; and note (*b*), *supra*.

(*k*) See 1 & 2 Vict. c. 110, ss. 11, 13—19; 2 & 3 Vict. c. 11, ss. 1—6; 3 & 4 Vict. c. 82, ss. 1, 2; 18 & 19 Vict. c. 15; 23 & 24 Vict. c. 38, ss. 1—5; 27 & 28 Vict. c. 112; Sugd. V. & P. 527, *et seq.*; Shelford, R. P. Acts, 599, 603, 611; 2 Prideaux, Conv. 699; 1 Dart, 454, *et seq.*, 483, *et seq.*; 2 Seton, 1141—1145; Chitty's Arch. 463—471. Judgments signed since 29 July, 1874, do not affect lands until delivered in execution: 27 & 28 Vict. c. 112, s. 1; so that in such case the writ of execution, and not the judgment, should be registered. As to an unregistered judgment in the administration of assets, see *Van Gheluive* v. *Nerinckx*, 21 Ch. D. 189; *Re Illidge, Davidson* v. *Illidge*, 33 W. R. 18.

(*l*) The memorandum must be engrossed on parchment, and left at the Registry of Judgments in the Central Office. A separate memorandum is required for every defendant or other person whose estate is intended to be affected. No memorandum will be received after two o'clock in the afternoon: R. S. C. Ord. LXI. 22. A fee of 2*s*. 6*d*. is payable on registering, although more than one name may have to be registered, and a fee of 1*s*. on re-registering: by stamps impressed on the memoranda of registry or re-registry: see Ord. as to S. C. Fees, 1884, Sched. Nos. 110, 111; Ord. as to Fees, &c., July, 1884, p. 12. As to official searches, see R. S. C. Ord. LXI. 23; and as to the fees payable thereon, see Ord. as to S. C. Fees, 1884, Sched. Nos. 112, 114—118; Ord. as to Fees, &c., July 1884, p. 12.

(*m*) If for re-registry, say, "Filed for re-entry."

(*n*) If for re-registry, say, "A re-entry of a judgment (or order)."

(*o*) If for re-registry, add here, "Entered before on the —— day of ——, 188—."

NAME, &C., OF THE PERSON WHOSE ESTATE IS INTENDED TO BE AFFECTED.

Surname.	Christian Name or Names.	Usual or last known Place of Abode.	Title, Trade, or Profession.
Brown.	Edward James.	No. 800, Oxford Street, in the County of Middlesex.	Linendraper.

Amount of the debt, damages, costs, or monies thereby recovered, or ordered to be paid.

Amount of debt [*or as may be*] . . . £——.
Amount of costs . . . . . £——.

---

918. **Acknowledgment of satisfaction of a judgment or order (*p*).** [Dan. Pr. 843.]

Satisfaction is acknowledged between A. B. . . Plaintiff,
and
C. D. . . . Defendant.
as to a judgment [*or*, order] dated the —— day of ——, 188—, for the sum of £——, debt and £——, costs, a memorandum of which said judgment [*or*, order] was left with the Registrar of Judgments of the Supreme Court of Judicature (*q*), on the —— day of ——, 188—, to affect the estate of the said C. D. [*If the writ of execution on the judgment has been registered, add:* and on the Writ of Execution thereon, a Memorandum of which was left with the said Registrar on the —— day of ——, 188—.] And I the said A. B. [*or*, I, E. F., the executor or administrator of the said A. B.] do hereby expressly nominate and appoint G. H., of (*Place of business*), Solicitor, to witness and attest the execution of this Acknowledgment of Satisfaction.

Signed by the said A. B. [*or*, E. F.] in the presence of me the undersigned G. H., of ——, in the county of ——, one of the Solicitors of the Supreme Court of Judicature, and I hereby declare myself to be the Solicitor for and on behalf of the said A. B. [*or*, E. F.], expressly named by him and attending at his request to inform him of the nature and effect of this Acknowledgment of Satisfaction.

A. B.,
the above named Plaintiff, [*or*, E. F., the executor [*or*, administrator] of the above-named plaintiff A. B.], the —— day of ——, 188—.

(*p*) See 23 & 24 Vict. c. 115, s. 2. A fee of 1*s.* is payable on a certificate of satisfaction: by a stamp impressed on or adhesive to the certificate: Ord. as to S. C. Fees, 1884, Sched. No. 121; Ord. as to Fees, &c., July, 1884, p. 12.

(*q*) On the occurrence of the next vacancy in this office, the senior Master of the Supreme Court will hold and perform the duties of the office: see 42 & 43 Vict. c. 78, s. 14 (3).

faction, (which I accordingly did before the same was signed by him). And I also declare that I subscribe my name as a Witness hereto as such Solicitor.

G. H.

Filed with the Registrar of Judgments, on the —— day ——, 188–, by G. H., of ——, Solicitor.

919.

Petition of course for entry of satisfaction of a judgment or order, by consent. [Dan. Pr. 843, 332, 333.]

(*See* Form 363, *which can be readily adapted to the case of a judgment or order.*)

920.

Special petition for entry of satisfaction of a judgment or order. [Dan. Pr. 843, 332, 333.]

(*See* Form 364, *which can be readily adapted.*)

921.

Notice of motion or summons for entry of satisfaction of a judgment or order. [Dan. Pr. 843, 332, 333.]

(*See* Form 365, *which can be readily adapted.*)

922.

Memorial of judgment for registration in Middlesex or Yorkshire (*r*). [Dan. Pr. 843—844.]

A memorial to be registered of

a judgment [*or*, an order] of Her Majesty's High Court of Justice dated the —— day of ——, 188—, and made in an action there depending, wherein A. B., of (*address and description*), is plaintiff, and C. D., of (*address and description*), is defendant, whereby it was adjudged [*or*, ordered] that (*Here recite the judgment or order; as thus:* the said A. B. should recover against the said C. D. the sum of £—— together with costs; which said costs were afterwards taxed and allowed by one of the taxing masters of the said Court at the sum of £——).

(*r*) As to registration in Middlesex, see 7 Anne, c. 20. Registration in Yorkshire, as from 1st January, 1885, is regulated by 47 & 48 Vict. c. 54. The memorial must be engrossed on parchment and must bear a 2*s*. 6*d*. stamp.

923.
Certificate of a master thereon (*s*). [Dan. Pr. 844.]

I certify that judgment was entered in the above action on the —— day of ——, 188—.

X. Y.,
One of the Masters of the Supreme Court.

924.
Affidavit verifying signature. [Dan. Pr. 844.]

Formal parts: see Form 6.

That I was present and did see X. Y., esquire, one of the Masters of the Supreme Court of Judicature, sign the certificate of the judgment in the memorial above mentioned.

(D.) *Enforcing the Judgment in Scotland or Ireland* (*t*.)

925.
Certificate where judgment for plaintiff (*u*). [Dan. Pr. 846.]

I, ——, one of the Masters of the Supreme Court of Judicature in England, certify that (*Here state name, title, trade or profession, and usual or last known place of abode of plaintiff*) on the —— day of ——, 188—, obtained judgment against (*Here state name and title, trade or profession, and usual or last known place of abode of defendant*), before Her Majesty's High Court of Justice in England, for payment of the sum of £——, on account of (*State shortly nature of claim or ground of action, with the sum of costs, if any; and state whether the judgment was obtained after appearance made by the defendant, or after service (personal or otherwise) of the action on the defendant*).

Dated —— day of ——, 188—.

926.
Certificate where judgment for defendant (*v*). [Dan. Pr. 846.

I (*&c.: as in* Form 925) certify that (*Here state name and title, trade or profession, and usual or last known place of abode of defendant*) on the —— day of ——, 188—, obtained judgment against (*Here state name and title, trade or profession, and usual or last known place of abode of plaintiff*), before Her Majesty's High Court of Justice in England, for payment of the sum of £——, as costs of suit.

927.
Minute of presentation (*w*). [Dan. Pr. 846.]

Presented for registration in terms of "The Judgments Extension Act, 1868."

(*s*) This certificate is written at the foot of the memorial.
(*t*) See 31 & 32 Vict. c. 54, ss. 1, 2; Chitty's Arch. 1457—1461.
(*u*) *Ibid.*, Sched. Form 1.
(*v*) *Ibid.*, Sched. Form 2.
(*w*) *Ibid.*, Sched. Form 3. The minute is to be appended to the certificate, and signed by the solicitor for the party prosecuting the judgment. An affidavit of the solicitor applying for the certificate must be filed, giving the address and profession of the plaintiff and defendant: Rules Michaelmas Term, 1868.

(E.) *Enforcing a Judgment of the Court of Chancery of the County Palatine of Lancaster (x).*

928.

Motion paper to make decree or order of the Court of Chancery of the County Palatine of Lancaster an order of the High Court. [Dan. Pr. 846, 847, note (*b*).]

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

In the matter of the Court of Chancery of Lancaster Act, 1850.

And in the matter of a suit in the Court of Chancery of the County Palatine of Lancaster, between A. B. plaintiff, and C. D. defendant.

To move on behalf of A. B., that the decree [*or*, order] of the Court of Chancery of the County Palatine of Lancaster, dated the ——, 188—, may be made an order of this Court.

If as to part only, specify what part; as thus: as against the several persons who are named in the second column of the schedule hereunto annexed.

A transcript of (part of) the decree [*or*, order], and an affidavit in support accompany.

929.

Affidavit in support (*y*). [Dan. Pr. 847.]

Formal parts: see Form 6; *for title, see* Form 928.

1. (*Show that the decree or order, or the part thereof sought to be enforced, cannot be enforced by the Court of Chancery of the County Palatine of Lancaster, by reason of the party, against whom the same is sought to be enforced, having withdrawn his person or goods out of, or of his non-residence within, the jurisdiction of that Court; and that he is bound by the decree or order.*)

2. (*Show means of knowledge.*)

(F.) *Enforcing a Judgment, Decree, or Order of the Court of the Vice-Warden of the Stannaries (z).*

930.

Motion paper or summons for leave to issue process on judgment in action on common law side of Stannaries Court (*a*). [Dan. Pr. 847.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

In the matter of the Act, 18 & 19 Vict. c. 32.

And in the matter of a judgment recovered in the Court of the Vice-Warden of the Stannaries, in an action between A. B. plaintiff, and C. D. defendant.

(*x*) Sec 13 & 14 Vict. c. 43, s. 15; 17 & 18 Vict. c. 52, s. 10. For form of order, see 2 Seton, 1552, No. 3.

(*y*) As to the contents of the affidavit, see 13 & 14 Vict. c. 43, s. 15.

(*z*) See 18 & 19 Vict. c. 32, ss. 9, 10.

(*a*) See 18 & 19 Vict. c. 32, s. 9; 2 Seton, 1553. The application may be made either to the Court or at Chambers, and is made *ex parte*. When made at Chambers it must be made by originating summons.

If the application is made by motion, say: To move on behalf of

If the application is made by summons, say: Let all parties (*&c.: proceed as in* Form 1078, *to* noon), on the hearing of an application on the part of,

In either case continue thus: the above-named A. B. [*or*, C. D.], of (*residence and addition*), that he may be at liberty, pursuant to the 18 & 19 Vict. c. 32, s. 9, to issue process out of this Honourable Court, and to take other proceedings therein, for the recovery of the amount due on a judgment of the Court of the Vice-Warden of the Stannaries, dated the —— day of ——, 188—, and made in the above-mentioned action, and of the costs of this application (such costs to be taxed): in the same manner as if the said judgment were a judgment of this Court.

931.

Motion paper or summons to make decree or order of equity side of Stannaries Court an order of the High Court of Justice (*b*). [Dan. Pr. 847.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

In the matter of the Act, 18 & 19 Vict. c. 32.
And in the matter of a decree or order of the Court of the Vice-Warden of the Stannaries, made in a cause between A. B. plaintiff, and C. D. defendant.

If the application is made by motion, say: To move on behalf of

If the application is made by summons, say: Let all parties (*&c.: proceed as in* Form 1078, *to* noon), on the hearing of an application on the part of

In either case, continue thus: the above-named A. B. [*or*, C. D.], of (*residence and addition*), that the decree [*or*, order] of the Court of the Vice-Warden of the Stannaries, dated the —— day of ——, 188—, and made in the above-mentioned cause

If part only of the decree or order is sought to be enforced, say: that so much of the decree [*or*, order] of the Court of the Vice-Warden of the Stannaries, dated the —— day of ——, 188—, and made in the above-mentioned cause as orders that (*Recite the part of the decree or order sought to be enforced*)

may be made an order of the High Court of Justice, pursuant to the 18 & 19 Vict. c. 32, s. 10. And that the costs of and consequent upon this application may be taxed.

932.

Affidavit in support (*c*). [Dan. Pr. 847.]

Title as in Form 930 *or* 931; *other formal parts: as in* Form 6.

1. On the —— day of ——, 188—, by a judgment duly recovered [*or*, by a decree [*or*, order] duly made] in an action [*or*, cause] duly

(*b*) See 18 & 19 Vict. c. 32, s. 10. The application may be made either to the Court or at Chambers, and is made *ex parte*. When made in Chambers it must be made by an originating summons.

(*c*) As to the contents of this affidavit, see 18 & 19 Vict. c. 32, ss. 9, 10. The application must also be supported by a certificate of the Registrar of the Court, under the seal of the Court.

instituted on the common law [*or*, equity] side of the Court of the Vice-Warden of the Stannaries, wherein the above-named A. B. was plaintiff, and the above-named C. D. was defendant, and whereof the said Court had cognizance, it was adjudged [*or*, decreed—*or*, ordered] that (*Recite the part of the judgment, decree, or order sought to be enforced*).

2. The said judgment [*or*, decree—*or*, order] cannot be conveniently or effectually enforced against the said C. D. [*or as may be*] by the ordinary process of the said Court, within the jurisdiction thereof, by reason of the said C. D. [*or as may be*] being resident at ——, out of the jurisdiction of the said Court [*or*, of the said C. D. having withdrawn his person out of the jurisdiction of the said Court].

If the judgment, decree, or order is for payment of money or costs, add: and of his not having any property or effects situate within the jurisdiction of the said Court.

3. (*Show means of knowledge.*)

(G.) *Enforcing Orders under* 25 *&* 26 *Vict. c.* 89, *ss.* 122, 123.

933.

Motion paper to make an order made by Scotch or Irish Court an order of the High Court (*d*). [Dan. Pr. 847, 848.]

In the matter of the Companies Act, 1862.
And in the matter of the —— Co.

To move on behalf of the official liquidator of the above-named company [*or as may be*], that the order dated the —— day of ——, 188—, of the Court of Session at Edinburgh [*or as may be*], may be made an order of this Court as against C. D. and E. F. [*or as may be*].

(2.) *The Writ of Fieri Facias* (*a*).

(*Dan. Pr.*, pp. 848—864, ccclxxxvii.)

(A.) *Issuing the Writ.*

934.

Præcipe for the writ (*b*). [Dan. Pr. 850.]

188—. B. No.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

(*d*) For form of order, see 2 Seton, 1554, No. 4. An office copy of the order to be enforced must be produced: sec 25 & 26 Vict. c. 89, s. 123.

(*a*) *Writ of Fieri Facias.*—A writ of *fieri facias* has the same force and effect, and is executed in the same manner, as the like writ before the Judicature Acts: R. S. C. Ord. XLIII. 1. A writ of *fi. fa.* may issue upon any judgment for the recovery by or payment to any person of money: *Ibid.*, Ord. XLII. 3, 17; and Ord. XLIII. It may issue immediately judgment is entered, except (1) in the cases mentioned in R. S. C. Ord. XLII. 17: as to which see note (*b*), at p. 360. (2) Where leave to issue execution is required; (3) on an order for payment of costs upon an interpleader proceeding under 1 & 2 Wm. IV. c. 58, s. 7, which requires *fifteen days'* notice to the party ordered to pay before issue of execution. No service of the judgment is necessary before issuing the writ: *Ex parte Munster*, L. R. 5 Ch. 323. As to the writ of *fi. fa.*, see R. S. C. Ord. XLII. 17; 2 Seton, 1561, 1562; Chitty's Arch. 550—587; Chitty's Forms, 389—423.

(*b*) See R. S. C. Ord. XLII. 12; App. G., No. 1.

Between A. B. . . . . Plaintiff,
and
C. D. and others . . . Defendants.

Seal a writ of *fieri facias*, directed to the sheriff of ——, to levy against C. D., of ——, in the county of ——, the sum of £—— debt, and £—— costs of suit, and interest at the rate of £—— per centum per annum on the amount of the debt and on the amount of the costs, from the —— day of ——, 188— (*Date of judgment or order*).

If part paid, add: Indorsed to levy £—— and interest from (*&c.: as indorsed on the fi. fa.*).

Judgment [*or*, order] dated —— day of ——, 188—.
Certificate for costs dated —— day of ——, 188—.
(*Name and address of solicitor or party issuing the writ.*)

935.
Writ of *fieri facias* for money, interest, and costs (*c*). [Dan. Pr. 84.

(*Heading as in* Form 934.)

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith:

To the sheriff of —— (*d*), greeting.

We command you that of the goods and chattels of C. D. in your bailiwick you cause to be made the sum of £—— (*e*), and also interest thereon at the rate (*f*) of £—— per centum per annum, from the —— day of ——, 188— (*g*), which said sum of money and interest were lately before us in our High Court of Justice in a certain action wherein A. B. is plaintiff and C. D. and others are defendants [*or*, in a certain matter there depending intituled "In the matter of E. F."—*or as may be*] by a judgment [*or*, order] of our said Court, bearing date the —— day of ——, adjudged [*or*, awarded—*or*, ordered] to be paid by the said C. D. to A. B., together with certain costs in the said judgment [*or*, order] mentioned, and which costs have been taxed and allowed by one of the taxing officers of our said Court at the sum of £——, as appears by the certificate of the said taxing officer, dated the —— day of ——, 188—. And that of the goods and chattels of

(*c*) See R. S. C. Ord. XLII. 14; App. H., No. 1. The writ must be so moulded as to follow the substance of the judgment or order: see the note to the official form of writ issued in the Central Office; Chitty's Arch. 513, 514, 551; Dan. Pr. 828. On issuing the writ the judgment must be produced: R. S. C. Ord. XLII. 11; and note (*b*), at p. 360. The writ is issued out of the Writ, Appearance, and Judgment Department of the Central Office, or the District Registry. On issuing a fee of 5*s.* is payable: by a stamp impressed on the *præcipe:* Ord. as to S. C. Fees, 1884, Sched. No. 6; Ord. as to Fees, &c., July, 1884, p. 4.

(*d*) As to the direction of the writ, see Chitty's Forms, 396, 397.

(*e*) Here insert the full amount of the debt or damages for which judgment is recovered, even though the judgment debtor may have satisfied some part thereof: for the writ must strictly follow the judgment or order: see note (*a*), *supra*.

(*f*) See R. S. C. Ord. XLII. 16; and note (*b*), at p. 360.

(*g*) Day of the judgment or order, or day on which money is directed to be paid, or day from which interest is directed by the order to run, as the case may be.

the said C. D., in your bailiwick, you further cause to be made the said sum of £—— (*h*), together with interest thereon (*i*) at the rate of £4 per centum per annum, from the —— day of ——, 188— (*j*). And that you have that money and interest before us in our said Court immediately after the execution hereof, to be paid to the said A. B. in pursuance of the said judgment [*or*, order]. And in what manner you shall have executed this our writ make appear to us in our said Court immediately after the execution thereof. And have there then this writ.

Witness Roundell, Earl of Selborne, Lord High Chancellor of Great Britain, the —— day of ——, in the year of our Lord one thousand eight hundred and eighty —— (*k*).

936.

Indorsement of name and address of party issuing writ, where writ issued by solicitor (*l*). [Dan. Pr. 849.]

This writ was issued by X. Y., of (*Place of abode or office of business*), agent for T. Z., of (*Place of abode*), solicitor for the within-named plaintiff [*or as may be*].

937.

The like, where writ issued by the party in person (*l*). [Dan. Pr. 849.]

This writ was issued by A. B., the within-named plaintiff [*or as may be*], in person, who resides at No. ——, in Blank Street, in the parish of ——, in the county of —— (*State city, town, or parish, and also the name of the hamlet, street, and number of the house of the party's residence, if any such there be*).

938.

Indorsement of amount to be levied (*m*). [Dan. Pr. 850.]

Levy £——, and £—— for costs of execution, and also interest on £—— at £4 per centum from the —— day of ——, 188—, until payment, besides sheriff's poundage, officer's fees, costs of levying, and all other legal incidental expenses.

(*h*) The amount of the taxed costs.

(*i*) The right to this interest, where it has not been expressly agreed on between the parties, is given by the stat. 1 & 2 Vict. c. 110, s. 17. As to rate of interest, see R. S. C. Ord. XLII. 16; and note (*b*), at p. 360. It seems that interest now runs on costs from the date of the judgment: see *Pyman & Co.* v. *Burt, Boulton, and Another*, W. N. (1884), 100; *Landowners' West of England and South Wales, &c. Co.* v. *Ashford*, 33 W. R. 41; form of *fi. fa.*, R. S. C. App. H., No. 1; and note thereto.

(*j*) The date of the judgment or order, or day on which money is directed to be paid, or day from which interest is directed by the order to run, as the case may be.

(*k*) See R. S. C. Ord. II. 8; Ord. XLII. 14.

(*l*) See R. S. C. Ord. XLII. 13; and note (*b*), at p. 360.

(*m*) See R. S. C. Ord. XLII. 15, 16; and note (*b*), at p. 360. The indorsement must be for the amount actually due, although the full amount of debt or damages be stated in the body of the writ. As to the sheriff's poundage, and the other expenses of execution, see Chitty's Arch. 540—546.

939. Indorsement of address of defendant (*n*).

The defendant is a (*State occupation*), and resides at ——, in your bailiwick.

---

940. *Fieri facias* for costs only (*o*).

(*Heading as in* Form 934.)

Victoria, (*&c. ; as in* Form 935) :

To the sheriff of ——, greeting. We command you, that of the goods and chattels of C. D., in your bailiwick, you cause to be made the sum of £——, for certain costs which by an order of our High Court of Justice, dated the —— day of ——, 188—, were ordered to be paid by the said C. D. to the above-named plaintiff A. B. [*or as may be*], and which have been taxed and allowed at the said sum, and interest on the said sum at the rate of £4 per centum per annum from the —— day of ——, 188—. And that you have the said sum and interest before us in our said Court, immediately after the execution hereof, to be rendered to the said A. B. And in what manner (*&c.: Conclude as in* Form 935).

---

941. Indorsements on the writ.

(*Same as* Forms 936 *to* 939.)

---

942. Writ of *fieri facias* after a change of parties (*p*). [Dan. Pr. 851.]

188—. B. No.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. (since deceased) . . Plaintiff,
and
C. D. (since deceased) . . Defendant.

Victoria (*&c.: as in* Form 935) :

To the sheriff of ——, greeting.

Whereas lately in our High Court of Justice, in a certain action there depending wherein A. B., since deceased, is plaintiff, and C. D., since deceased, is defendant, by a judgment [*or*, order] of our said Court made in the said action, and bearing date the —— day of ——, 188—, it was adjudged [*or*, ordered] that C. D. should pay unto A. B. the sum of £——, together with certain costs as in the said judgment [*or*, order] mentioned, and which costs have been since taxed and allowed by R. B., esquire, one of the taxing officers of the said Court, at the sum of £——, as appears by the certificate of the said taxing officer dated the —— day of ——, 188—. And whereas the said A. B. died on the

(*n*) See R. S. C. App. H., No. 2.

(*o*) See R. S. C. Ord. XLII. 18 ; App. H., No. 2.

(*p*) The writ must state upon the face of it the change which has taken place, so as to show why it does not follow the judgment. The writ cannot be issued without leave of the Court or a Judge : R. S. C. Ord. XLII. 23 ; and note (*b*), at p. 361. For form of application for leave, see Form 906.

—— day of ——, 188—, and L. M. and N. O. have been duly constituted and now are the legal personal representatives of the said A. B. And whereas the said C. D. died on the —— day of ——, 188—, and P. Q. and R. S. have been duly constituted and now are the legal personal representatives of the said C. D. And whereas by an order dated the —— day of ——, 188—, made upon the application of the said L. M. and N. O., it was ordered that the said L. M. and N. O., as such legal personal representatives as aforesaid of the said A. B., deceased, should be at liberty to issue execution on the said judgment for the amount thereof against the said P. Q. and R. S., as such legal personal representatives as aforesaid of the said C. D. deceased. Therefore we command you that of the goods and chattels in your bailiwick which were of the said C. D. at the time of his death in the hands of the said P. Q. and R. S., his legal personal representatives, to be administered, you cause to be made the said two several sums of £——(*q*) and £——(*r*), together with interest on the said sums at the rate of £4 per cent. per annum, from the —— day of ——, 188—(*s*). And that you have that money and interest before us in our said Court immediately after the execution hereof, to be paid to the said L. M. and N. O., as such legal personal representatives as aforesaid, in pursuance of the said judgment [*or*, order]. And in what manner (*&c.: Conclude as in* Form 935).

943.

Indorsements on writ.

(*Same as* Forms 936 *to* 939).

944.

Writ of *fieri facias* against member of a banking company under 7 Geo. 4, c. 46 (*t*).

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff.

and

C. D., one of the registered public officers of the R. Banking Company . . Defendant.

Victoria (*&c.: as in* Form 935):

To the Sheriff of —— greeting.

Whereas lately in our High Court of Justice, in a certain action there depending wherein A. B. is plaintiff and C. D. one of the regis-

(*q*) Amount of debt or damages.

(*r*) Amount of taxed costs.

(*s*) Date of judgment or order, or day on which the money is directed to be paid, or day from which interest is directed to run, as the case may be.

(*t*) See 7 Geo. IV. c. 46, s. 13. From this form other forms of writs may easily be framed: as may also forms of writs under 7 Wm. IV. & 1 Vict. c. 73, s. 24; and under 8 & 9 Vict. c. 16, s. 36. For forms of application for leave to issue execution in such cases, see Forms 907 to 912.

tered public officers of certain persons united in co-partnership under the name and style of the R. Company for the carrying on, and carrying on, the trade and business of bankers in England under the provisions of the statutes in that behalf for the better regulating co-partnerships of bankers in England, by a judgment [*or*, order] of our said Court made in the said action, and bearing date the —— day of ——, 188—, it was adjudged [*or*, ordered] that the said A. B. should recover against the said C. D., as and being such registered public officer as aforesaid, the sum of £——, together with certain costs as in the said judgment [*or*, order] mentioned, and which costs have been since taxed and allowed by C. S., esquire, one of the taxing officers of the said Court, at the sum of £——, as appears by the certificate of the said taxing officer dated the —— day of ——, 188—. And whereas by an order of our said Court dated the —— day of ——, 188—, it was ordered that (*Recite the order giving leave to issue the writ*) (*u*). Therefore we command you that of the goods and chattels of the said C. D. in your bailiwick you cause to be made the said two several sums. (*Continue as in* Form 942, *to the end, substituting* "A. B." *for* "L. M. and N. O., as such legal personal representatives as aforesaid.")

---

945. Indorsements on the writ (*v*).

(*Same as* Forms 936 *to* 939.)

(B.) *Execution of the Writ* (*w*).

946. Warrant on a *fieri facias* (*x*). [Dan. Pr. 835.]

—— to wit. X. Y., esquire, sheriff of the said county, to T. and Z., my bailiffs, greeting: By virtue of Her Majesty's writ to me directed and delivered, I command you and each of you jointly and severally that of the goods and chattels of C. D. in my bailiwick you cause to be made the sum of £—— (*Amount mentioned in the body of the writ*), which lately in the High Court of Justice, in a certain action wherein A. B. is plaintiff and C. D. and others are defendants, by a judgment [*or*, order] of the said Court bearing date the —— day of ——, 188—, was adjudged [*or*, ordered] to be paid by the said C. D. to A. B., together with certain costs in the said judgment [*or*, order] mentioned, and which costs have been taxed and allowed by one of the taxing officers of the said Court

(*u*) See Forms 907, 911.

(*v*) Where the liability of the person against whom the writ is issued is limited, care should be taken that the amount mentioned in the indorsement of the sum to be levied does not exceed the amount for which the party is liable: see 7 Wm. IV. & 1 Vict. c. 73, s. 24; 8 & 9 Vict. c. 16, s. 36.

(*w*) As to the execution of the writ, see Chitty's Arch. 524—532, 552—555. For form of bill of sale by a sheriff of goods seized under a *fi. fa.*, see Chitty's Forms, 418.

(*x*) See Chitty's Forms, 405. The warrant must be in writing, and must be executed by the person to whom it is addressed. The warrant should follow the terms of the writ.

at the sum of £——, as appears by the certificate of the said taxing officer dated the —— day of ——, 188—. And I further command you that of the goods and chattels of the said C. D. in my bailiwick you cause to be made the said sum of £——, and also interest at the rate of £4 per cent. per annum on the said sums of £—— and £——, from the —— day of ——, 188— : so that I may have that money and interest before Her Majesty in the said Court immediately after the execution hereof, to be paid to the said A. B. in pursuance of the said judgment [*or*, order]. And that you do all such things as by the statute passed in the second year of the reign of Queen Victoria I am authorised and required to do in this behalf. And in what manner you shall have executed this warrant certify to me immediately after the execution hereof.

Given under the seal of my office the —— day of ——, 188—.

By the sheriff.

Seal of Office.

Levy (*&c. Give a direction to the bailiff to make a levy, corresponding to the indorsement on the writ, see* Form 938).

(C.) *The return of the Writ* (*y*).

947.

Notice to sheriff to return writ (*z*). [Dan. Pr. 836, 859—860, ccclxxxvii.]

(*Heading as in* Form 934.)

To the sheriff of ——, and to —— his under-sheriff.

I hereby give you notice that I require you within

if writ issued in London or Middlesex, say : four days,

but if in any other county, say : eight days,

to make a return to the writ of *fieri facias* issued by the plaintiff [*or as may be*] in the above action, and tested the —— day of ——, to levy against the above-named C. D. £—— and £—— costs, and interest.

Dated the —— day of ——, 188—.

Yours, &c.,

X. Y., of ——,

Solicitor for the plaintiff [*or as may be*].

(*y*) As to the return of the writ, see Chitty's Arch. 532—540 ; *Ibid.*, 580—583 ; Chitty's Forms, 406—413. For cases in which a return is necessary, see Dan. Pr. 859—860.

(*z*) See R. S. C. Ord. LII. 11. No order issues for the return of any writ, but a notice from the person issuing the writ, or by his solicitor, calling upon the sheriff to return such writ, will entitle such person to apply for an order for the committal of such sheriff. For form in the text, see Chitty's Forms, 406.

948.

Return of *fieri feci* (*a*). [Dan. Pr. 860.]

By virtue of the within [*or*, annexed (*b*)] writ to me directed, I have caused to be made of the goods of the within [*or*, therein] named C. D., the moneys and interest within [*or*, therein] mentioned, which I have ready to pay to the within [*or*, therein] named A. B., as by the said writ I am commanded.

The answer of X. Y., esquire, sheriff.

949.

Return of *nulla bona* (*c*). [Dan. Pr. 860.]

The within-named C. D. has no goods or chattels in my bailiwick whereof I can cause to be made the moneys and interest within mentioned, or any part thereof, as within I am commanded.

The answer of X. Y., esquire, sheriff.

950.

Return of *fieri feci* for part, and *nulla bona* as to residue (*d*). [Dan. Pr. 860.]

By virtue of the within [*or*, annexed (*b*)] writ to me directed, I have caused to be made of the goods and chattels of the therein-named C. D. £——; out of which I have retained £—— for levying the said execution, keeping possession of the said goods and chattels, and for poundage; and the residue thereof, being £——, I have ready to pay to the therein-named A. B.: as by the said writ I am commanded. And I further certify that the said C. D. hath not any other goods or chattels in my bailiwick whereof I can cause to be made the residue of the said moneys and interest, in the writ mentioned, or any part thereof.

The answer of X. Y., esquire, sheriff.

951.

Return that sheriff has taken goods which remain on his hands, for want of buyers (*e*). [Dan. Pr. 860.]

By virtue of the within [*or*, annexed (*b*)] writ to me directed, I have taken goods and chattels of the therein-named C. D. to the value of the moneys and interest therein mentioned [*or*, to the value of £——], which goods and chattels remain in my hands unsold for want of buyers; therefore I cannot have that money before our lady the Queen, as therein I am commanded (*If the value returned be less than the amount ordered to be levied, add:* And I further certify that the said C. D. hath not any other goods (*Continue as in* Form 950, *to the end*).

(*a*) As to this return, see Chitty's Arch. 581.

(*b*) The return may be either indorsed upon the writ, or set forth in a schedule annexed to the writ. In the latter case the writ should be indorsed as follows: "The execution of this writ appears in the schedule hereto annexed. The answer of X. Y., esquire, sheriff."

(*c*) As to this return, see Chitty's Arch. 581.

(*d*) *Ibid.* As to *Alias fi. fa.*, and *Pluries fi. fa.*, see Chitty's Forms, 402, No. 13; Chitty's Arch. 585.

(*e*) As to this return, see Chitty's Arch. p. 581.

952.

Return of *nulla bona*, and that execution debtor is a beneficed clerk (*g*).
[Dan. Pr. 863.]

The within-named C. D. has not any goods or chattels, nor any lay fee in my bailiwick, whereof I can cause to be made the moneys and interest within mentioned, or any part thereof, as within I am commanded; but I do hereby certify that the said C. D. is a beneficed clerk, to wit, rector of the rectory [*or*, vicar of the vicarage] and parish church of ——, in my county, which said rectory [*or*, vicarage] and parish church are within the diocese of the reverend father in God, ——, by divine permission, Lord Bishop of ——.

The answer of X. Y., esquire, sheriff.

(D.) *Writ of fieri facias for residue of Debt after levy of Part* (*h*).

953.

Præcipe for writ.
[Dan. Pr. 860.]

(*Same as* Form 934.)

954.

The writ.
[Dan. Pr. 860.]

Proceed as in Form 935, *down to* "greeting;" *and continue thus:*—

Whereas by our writ we lately commanded

If the writ is directed to the same sheriff as the former writ, say: you,

If the writ is directed to the sheriff of another county, say: our sheriff of ——,

that of the goods and chattels of C. D. in your [*or*, his] bailiwick, you [*or*, he] should cause to be made (*Here recite the former fi. fa. to the end*). And on the —— day of ——, 188—, you [*or*, the said sheriff] returned to us in the Chancery Division of our High Court of Justice aforesaid, that by virtue of the said writ to you [*or*, him] directed, you [*or*, he] had caused to be made (*Here recite the return to the end*). Therefore, we command you, that of the goods and chattels of the said C. D. in your bailiwick, you cause to be made the sum of £——, being the residue of the said two several sums of £—— and £——, together with interest thereon, at the rate of £4 per cent. per annum, from the —— day of ——, 188—. And that you have that money and interest (*Conclude as in* Form 935).

955.

Indorsements on the writ.

(*Same as* Forms 936 *to* 939.)

(*g*) As to this return, see Chitty's Arch. 1062. Upon this return a writ of *fi. fa. de bonis ecclesiasticis* or of *sequestrari facias de bonis ecclesiasticis* may issue: see Forms 963, 968.

(*h*) Where any sum, however trifling, has been levied under one writ, no other writ may be issued until the former has been returned, and the second writ must recite the former writ and the return thereto.

(E.) *Writ of Venditioni Exponas* (*i*).

956.
Præcipe for writ of *venditioni exponas* (*j*). [Dan. Pr. 861.]

(*Heading as in* Form 934.)

Seal a writ of *venditioni exponas* directed to the sheriff of ——, to sell the goods and chattels of C. D., taken under a writ of *fieri facias* in this action, tested —— day of —— (*Date of issuing fi. fa.*)

Dated —— day of ——, 188—,

(*Name and address of solicitor or party issuing writ.*)

957.
Writ of *venditioni exponas* (*k*). [Dan. Pr. 861.]

(*Heading as in* Form 934.)

Victoria (*&c., as in* Form 935):

To the sheriff of ——, greeting.

Whereas by our writ we lately commanded you that of the goods and chattels of C. D. (*Here recite the fieri facias to the end*). And on the —— day of ——, you returned to us, in the Chancery Division of our High Court of Justice aforesaid, that by virtue of the said writ to you directed, you had taken goods and chattels of the said C. D. to the value of the money and interest aforesaid [*or as may be: as in return*], which said goods and chattels remained in your hands unsold for want of buyers. Therefore we, being desirous that the said A. B. should be satisfied his money and interest aforesaid, command you that you expose to sale and sell, or cause to be sold, the goods and chattels of the said C. D., by you in form aforesaid taken, and every part thereof, for the best price that can be gotten for the same, and have the money arising from such sale before us in our said Court of Justice immediately after the execution hereof, to be paid to the said A. B. And have there then this writ.

Witness (*Conclude as in* Form 935).

958.
Indorsements on the writ.

(*Same as* Forms 936 *to* 939.)

(*i*) *The writ of venditioni exponas.*—Where it appears upon the return of any writ of *fi. fa.* that the sheriff or other officer has by virtue of such writ seized, but not sold, any goods of the person directed to pay a sum of money or costs, the person to whom such sum of money or costs is payable, may, immediately after such writ with such return shall have been filed as of record, sue out a writ of *venditioni exponas*: R. S. C. Ord. XLIII. 2. A writ of *venditioni exponas* may be issued and executed in the same cases and in the same manner as before the Judicature Acts: R. S. C. Ord. XLIII. 5.

(*j*) See R. S. C. Ord. XLII. 12; App. G., No. 3.

(*k*) See R. S. C. Ord. XLII. 14; App. H., No. 4. The writ is issued from the Writ, Appearance, and Judgment Department of the Central Office, or from the District Registry, on production of the judgment, and of the office copy of the return to the writ of *fi. fa.* A fee of 5*s.* is payable on issuing the writ: by a stamp impressed on the *præcipe*: see Ord. as to S. C. Fees, 1884, Sched. No. 6; Ord. as to Fees, &c., July, 1884, p. 4. As to this writ, see Chitty's Arch. 583—585.

959.

(F.) *Writ of Distringas nuper Vicecomitem* (*l*).

Præcipe for writ of *distringas nuper vicecomitem* (*m*). [Dan. Pr. 862.]

Formal parts: as in Form 934.

Seal a writ of *distringas nuper vicecomitem quod venditioni exponat* directed to the sheriff of ——, to sell the goods and chattels of C. D., taken under a writ of *fieri facias* in this action, tested the —— day of ——, 188—.

Dated —— day of ——, 188—.

(*Name and address of solicitor or party issuing writ.*)

960.

The writ (*n*). [Dan. Pr. 862.]

Proceed as in Form 935, down to "greeting;" *and continue thus:* We command you, that you distrain X. Y., late sheriff of your county aforesaid, by all his lands and chattels in your bailiwick, so that neither he nor any one by him do lay hands on the same until you shall have another command from us in that behalf, and that you answer to us for the issues of the same, so that the said X. Y. expose to sale, and sell or cause to be sold, for the best price that can be gotten for the same, those goods and chattels which were of C. D. in your bailiwick, to the value of £——, the amount of [*or*, parcel of] the sum of £——, which lately before us in our High Court of Justice in a certain action wherein A. B. is plaintiff, and C. D. and others are defendants, by a judgment [*or*, order] of our said Court, bearing date the —— day of ——, 188—, was adjudged [*or*, ordered] to be paid by the said C. D. to the said A. B., and of the sum of £——, the amount at which the costs in the said judgment [*or*, order] mentioned have been taxed and allowed, and of interest on the said sums of £—— and £——, at the rate of £4 per centum per annum, from the —— day of ——, 188—: which goods and chattels he lately took by virtue of our writ, and which remain in his hands for want of buyers, as the said late sheriff hath lately returned to us in our said Court. And have the money arising from such sale before us in our said Court immediately after the execution hereof, to be paid to the said A. B. And have there then this writ.

Witness (*Conclude as in* Form 935).

(*l*) *The writ of distringas nuper vicecomitem, &c.*—Where after returning that he has levied, and that the goods remain in his hands for want of buyers, the sheriff goes out of office, a writ of *distringas nuper vicecomitem* should be sued out: Chitty's Arch. 585. A writ of *distringas nuper vicecomitem* may be issued and executed in the same cases and in the same manner as before the Judicature Acts: R. S. C. Ord. XLIII. 5.

(*m*) See R. S. C. App. G., No. 11.

(*n*) *Ibid.*, App. H., No. 14. The writ is issued from the Writ, Appearance, and Judgment Department of the Central Office, or from the District Registry, upon production of the judgment, and of the office copy of the sheriff's return. A fee of 5*s.* is payable on issuing the writ: by a stamp impressed on the *præcipe*: Ord. as to S. C. Fees, 1884, Sched. No. 6; Ord. as to Fees, &c., July, 1884, p. 4.

961.
Indorsements on the writ.

(*Same as* Forms 936, 937 *and* 939).

(G.) *The Writs of Fieri Facias de Bonis Ecclesiasticis and Sequestrari Facias de Bonis Ecclesiasticis* (*o*).

962.
Præcipe for writ of *fieri facias de bonis ecclesiasticis* (*p*).
[Dan. Pr. 863.]

(*Heading as in* Form 934.)

Seal a writ of *fieri facias de bonis ecclesiasticis* directed to the Lord Bishop of —— [*or, if the see is vacant,* to the Archbishop of ——], to levy against C. D. the sum of £——.

Judgment [*or*, order] dated ——, 188—.

Taxing Officer's certificate dated ——, 188—.

Dated —— day of ——, 188—.

(*Name and address of solicitor or party issuing the writ*).

963.
The writ directed to Bishop (*q*).
[Dan. Pr. 863.]

(*Heading as in* Form 934).

Victoria (*&c.: as in* Form 935):

To the Right Reverend Father in God (John), by Divine permission Lord Bishop of ——, greeting:

We command you, that of the ecclesiastical goods of C. D., clerk in

(*o*) *The writs of fi. fa. de bonis ecclesiasticis, &c.*—Where, upon the return of any writ of *fieri facias*, or of any writ of *elegit*, it appears that the person against whom the writ was issued is a beneficed clerk, and has no goods or chattels nor any lay fee in the bailiwick of the sheriff to whom the writ was directed, the person to whom the money or costs mentioned in the writ is or are payable, may, immediately after such writ with the return shall have been filed as of record, sue out one or more writs of *fieri facias de bonis ecclesiasticis* or one or more writs of sequestration: R. S. C. Ord. XLIII. 3.

Such writs, when sealed, will be delivered to the Bishop to be executed by him, and when returned by the Bishop will be delivered to the parties or solicitors by whom respectively they were sued out, and will thereupon be filed as of record in the Central Office; and for the execution of such writs the Bishop or his officers must not take or be allowed any fees other than such as are or shall be from time to time allowed by lawful authority: *Ibid.*, Ord. XLIII. 4.

Such writs may be issued and executed in the same cases and in the same manner as before the Judicature Acts: *Ibid.*, Ord. XLIII. 5.

(*p*) See R. S. C. Ord. XLII. 12; App. G., No. 4.

(*q*) See R. S. C. Ord. XLII. 14; App. H., No. 5. Before the writ is issued, the *fi. fa.* or *elegit* upon which it is issued, and the return thereto, must be filed. The writ is issued from the Writ, Appearance, and Judgment Department of the Central Office, or from the District Registry, on production of the judgment and the sheriff's return. A fee of 5*s.* is payable on issuing the writ: by a stamp impressed on the *præcipe:* see Ord. as to S. C. Fees, 1884, Sched. No. 6; Ord. as to Fees, &c., July, 1884, p. 4. The writ is delivered to the Registrar of the diocese. As to the writ and execution of the writ, see Chitty's Arch. 1063, 1064; 2 Seton, 1561, 1579; Chitty's Forms, 572—576. As to the powers of sequestrators appointed by the Bishop or Archbishop in pursuance of the writ, see 12 & 13 Vict. c. 67. The Bishop or Archbishop is in the same position as the sheriff, and may be ordered to return the writ: Chitty's Arch. 1067. The Bishop or Archbishop is entitled to the same fees for the execution of the writ as a sheriff.

your diocese, you cause to be made £——, which lately before us in our High Court of Justice, in a certain action wherein A. B. is plaintiff and C. D. is defendant [*or*, in a certain matter there depending, intituled "In the matter of E. F."—*or as the case may be*], by a judgment [*or*, order] of our said Court bearing date the —— day of ——, was adjudged [*or*, ordered] to be paid by the said C. D. to the said A. B., together with interest on the said sum of £——, at the rate of £—— per centum per annum, from the —— day of —— ; and have that money, together with such interest as aforesaid, before us in our said Court immediately after the execution hereof, to be rendered to the said A. B.: for that our sheriff of —— returned to us in our said Court on [*or*, at a day now past], that the said C. D. had not any goods or chattels or any lay fee in his bailiwick whereof he could cause to be made the said £—— and interest aforesaid or any part thereof, and that the said C. D. was a beneficed clerk (to wit) rector of the rectory [*or*, vicar of the vicarage] and parish church of —— in the said sheriff's county, and within your diocese (*as in the return*). And in what manner you shall have executed this our writ make appear to us in our said Court immediately after the execution hereof. And have you there then this writ.

Witness (*&c.: Conclude as in* Form 935).

964.

The writ directed to the Archbishop (*r*). [Dan. Pr. 863.]

Victoria (*&c.: as in* Form 935) :

To the Right Reverend Father in God ——, by Divine Providence Lord Archbishop of Canterbury, Primate of all England and Metropolitan, greeting :

We command you, that of the ecclesiastical goods of C. D., clerk in the diocese of ——, which is within the province of Canterbury, as ordinary of that church, the episcopal see of —— now being vacant, you cause to be made (*Conclude as in* Form 963).

965.

Indorsements on the writ of name and address of party issuing the writ, and of amount to be levied.

(*Same as* Forms 936 *to* 938).

966.

Indorsement of address of defendant.

The defendant is a clerk in Holy Orders, and resides at —— in your diocese [*or, if the writ is directed to the Archbishop*, "in the diocese of ——"].

(*r*) See R. S. C. Ord. XLII. 14 ; App. H., No. 6 ; see note (*o*), p. 383.

967.

Præcipe for writ of *sequestrari facias de bonis ecclesiasticis* (*s*). [Dan. Pr. 863.]

(*Heading as in* Form 934.)

Seal a writ of *sequestrari facias* directed to the Lord Bishop of —— [*or, if the see is vacant,* to the Archbishop of ——], against C. D. for (*Here describe the default*; *as:* not paying to A. B. the sum of £——).

Judgment [*or,* Order] dated ——, 188—.

Taxing Officer's certificate dated ——, 188—.

Dated —— day of ——, 188—.

(*Name and address of solicitor or party issuing the writ.*)

968.

Writ of *sequestrari facias de bonis ecclesiasticis* on judgment for the payment of money (*t*). [Dan. Pr. 863.

(*Heading as in* Form 934.)

Victoria (*&c.: as in* Form 935).

To the Right Reverend Father in God ——, by Divine permission Lord Bishop of —— [*or,* To the Right Reverend Father in God——, by Divine providence Lord Archbishop of Canterbury, Primate of all England and Metropolitan], greeting:

Whereas we lately commanded our sheriff of ——, that (*Here recite the mandatory part of the fieri facias or elegit to the end*). And whereupon our said sheriff of ——, on the —— day of ——, 188— [*or,* at a day now past] returned to us in the Chancery Division of our said Court of Justice, that the said C. D. was a beneficed clerk; that is to say, rector of the rectory [*or,* vicar of the vicarage] and parish church of ——, in the county of ——, and within your diocese [*or,* and within the diocese of ——, which is within the Province of Canterbury, as ordinary of that church, the episcopal see of —— now being vacant], and that the said C. D. had not any goods or chattels or any lay fee in his bailiwick (*Here follow the words of the sheriff's return*). Therefore we command you that you enter into the said rectory [*or,* vicarage] and parish church of ——, and take and sequester the same into your possession, and that you hold the same in your possession until you shall have levied the said £—— and interest aforesaid, of the rents, tithes, rentcharges in lieu of tithes, oblations, obventions, fruits, issues, and profits thereof, and other ecclesiastical goods in your diocese [*or,* in the diocese of —— aforesaid], of and belonging to the said rectory [*or,* vicarage] and parish church of ——, and to the said C. D. as rector [*or,* vicar] thereof, to be rendered to the said A. B. And in what manner you shall have executed this our writ make appear to us in our said Court immediately after the execution thereof. And have you there then this writ.

Witness (*&c.: Conclude as in* Form 935).

(*s*) See R. S. C. Ord. XLII. 12; App. G., No. 5; and Note (*o*) at p. 383.

(*t*) *Ibid.*, 14; App. H., No. 7. As to the *sequestrari facias de bonis ecclesiasticis* for levying a sum of money, see Chitty's Arch. 1064, *et seq.*

969.

Indorsements on writ of name and address of party issuing the writ, and of amount to be levied.

(*Same as* Forms 936 *to* 938).

970.

Indorsement of address of defendant.

(*Same as* Form 966).

(3.) *The Writ of Elegit* (*a*).

(*Dan. Pr.*, pp. 864—875, cccl xxxvii.)

(A.) *Issuing the Writ.*

971.

Præcipe for the writ (*b*). [Dan. Pr. 871.]

In the High Court of Justice, 188—. B. No. .
Chancery Division.
(*Name of Judge.*)
Between A. B. . . . Plaintiff,
and
C. D. . . . . Defendant.
[Seal

(*a*) *The writ of elegit.*—A writ of *elegit* has the same force and effect, and is executed in the same manner, as the like writ before the Judicature Acts: R. S. C. Ord. XLIII. 1.

Such writ may issue upon any judgment for the recovery by or payment to any person of money: R. S. C. Ord. XLII. 3, 17; note (*b*) at p. 359; Ord. XLIII.

The writ may issue immediately the judgment is entered, except (1) in the cases mentioned in R. S. C. Ord. XLII. 17 (as to which, see note (*b*) at p. 360; (2), where leave to issue execution is required; (3), on an order for payment of costs upon an interpleader proceeding under 1 & 2 Wm. IV. c. 58, s. 7, which requires fifteen days' notice to the party ordered to pay before issue of execution. No service of the judgment is necessary before issuing the writ: R. S. C. Ord. XLII. 17; *Ex parte Munster*, L. R. 5 Ch. 323.

What may be delivered under the writ.—See 1 & 2 Vict. c. 110, s. 11; 46 & 47 Vict. c. 52, s. 146 (1); *Re Cowbridge Railway Co.*, L. R. 5 Eq. 413; *Hatton* v. *Haywood*, L. R. 9 Ch. App. 229; *Re South*, L. R. 9 Ch. App. 369; Dan. Pr. 868, 869.

Provisions of the Bankruptcy Act, 1883 (46 & 47 *Vict. c.* 52).—The sheriff shall not under an *elegit* deliver the *goods* of a debtor, nor shall an *elegit* extend to goods (s. 146 (1)).

Where a creditor has issued execution against the lands of a debtor, he shall not be entitled to retain the benefit of the execution against the trustee in bankruptcy of the debtor, unless he has completed the execution before the date of the receiving order, and before notice of the presentation of any bankruptcy petition by or against the debtor, or of the commission of any available act of bankruptcy by him (s. 45 (1)).

For the purpose of the Act an execution against land is completed by seizure, or in the case of an equitable interest, by the appointment of a receiver (s. 45 (2)). As to the writ of *elegit*, see 2 Seton, 1141—1145; Chitty's Arch. 588—601; Chitty's Forms, 424—434.

(*b*) See R. S. C. Ord. XLII. 12; App. G., No. 2. The form in the text is modified from that given in the Appendix G. to R. S. C. to meet the altered form of writ, which provides for recovering interest on the costs from the date of the judgment.

Seal a writ of *elegit* directed to the sheriff of —— against C. D. of —— in the county of ——, for not paying to A. B. the sum of £—— debt and £—— costs, together with interest thereon from the —— day of ——, 188—, at the rate of £4 per centum per annum.

Judgment [*or*, Order] dated —— day of ——, 188—.

Taxing officer's certificate dated —— day of ——, 188—.

Dated —— day of ——, 188—.

(*Name and address of solicitor or party issuing the writ. See* Form 934.)

972.
Writ of *elegit* (*c*).
[Dan. Pr. 871.]

(*Heading as in* Form 971).

Victoria (*&c.: as in* Form 935).

To the sheriff of —— greeting:

Whereas lately, in our High Court of Justice, in a certain action there depending [*or*, in a certain matter there depending intituled "In the matter of E. F."—*or as the case may be*], wherein A. B. is plaintiff and C. D. and others are defendants, by a judgment [*or*, order] of our said Court made in the said action [*or*, matter], and bearing date the —— day of ——, 188—, it was adjudged [*or*, ordered] that C. D. should pay unto A. B. the sum of £—— (*d*) together with interest thereon after the rate of £—— per centum per annum from the —— day of ——, 188—, together also with certain costs as in the said judgment [*or*, order] mentioned, and which costs have been taxed and allowed by C. S. esquire, one of the taxing officers of our said Court, at the sum of £——, as appears by the certificate of the said taxing officer, dated the —— day of ——. And afterwards the said A. B. came into our said Court, and according to the statute in such case made and provided chose to be delivered to him all such lands, tenements, rectories, tithes, rents, and hereditaments, including lands and hereditaments of copyhold or customary tenure, in your bailiwick, as the said C. D., or any one in trust for him, was seised or possessed of on the (*e*) —— day of —— in the year of our Lord ——, or at any time afterwards, or over which the said C. D. on the said —— day of —— (*e*), or at any time afterwards had any disposing power which he might without the assent of any other person exercise for his own benefit, to hold the said

(*c*) See R. S. C. Ord. XLII.; App. H., No. 3. The form in the text is that issued by the Practice Masters, and has been modified from that given in the Appendix to R. S. C. 1883, in order to meet the requirements of the Bankruptcy Act, 1883, as to which see note (*b*), *supra*. The writ must strictly pursue the judgment: Chitty's Arch. 513. On issuing the writ the judgment must be produced: R. S. C. Ord. XLII. 11; and note (*b*) at p. 360. The writ is issued out of the Writ, Appearance, and Judgment Department of the Central Office, or the District Registry. On issuing, a fee of 5*s.* is payable: by a stamp impressed on the *præcipe:* Ord. as to S. C. Fees, 1884, Sched. No. 6; Ord. as to Fees, &c., July, 1884, p. 4.

(*d*) Here insert the full amount of the debt or damages for which judgment is recovered, even though some part thereof may have been satisfied.

(*e*) Date of judgment or order.

lands, tenements, rectories, tithes, rents, and hereditaments respectively, according to the nature and tenure thereof, to him and to his assigns, until the said two several sums of £—— (*f*) and £—— (*g*), together with interest upon the said sums at the rate of £4 per centum per annum from the —— day of —— (*h*), shall have been levied. Therefore we command you that without delay you cause to be delivered to the said A. B. by a reasonable price and extent all such lands and tenements, rectories, tithes, rents and hereditaments, including lands and hereditaments of copyhold or customary tenure, in your bailiwick, as the said C. D., or any person or persons in trust for him, was or were seised or possessed of on the said —— day of —— (*hh*), or at any time afterwards, or over which the said C. D. on the said —— day of —— (*hh*), or at any time afterwards, had any disposing power which he might, without the assent of any other person, exercise for his own benefit, to hold the said lands, tenements, rectories, tithes, rents, and hereditaments respectively, according to the nature and tenure thereof, to him and to his assigns until the said two several sums and interest aforesaid shall have been levied. And in what manner you shall have executed this our writ make appear to us in our Court aforesaid, immediately after the execution thereof, under your seals, and the seals of those by whose oath you shall make the said extent and appraisement. And have there then this writ.

Witness (*&c.: Conclude as in* Form 935).

973.

Indorsements on the writ.

(*Same as* Forms 936 *to* 939.)

974.

Præcipe for writ of *elegit* for residue of debt where part has been levied under a *fi. fa.*

[Dan. Pr. 874.]

(*Same as* Form 971.)

975.

Writ of *elegit* in like case.

[Dan. Pr. 874.]

Proceed as in Form 972, *down to:* "certificate of the said taxing officer, dated the —— day of ——;" *and continue thus:* And whereupon by our writ we lately commanded

If the writ of elegit is directed to the same sheriff as the writ of fi. fa., say: you,

If the writ of elegit is directed to the sheriff of another county, say: our sheriff of ——,

(*f*) Amount of debt or damages.

(*g*) Amount of taxed costs.

(*h*) Date of judgment or order, unless by the judgment or order interest is ordered to run from some other date.

(*hh*) Date of judgment or order.

that of the goods and chattels of C. D. in your [*or*, his] bailiwick, you [*or*, he] should cause to be made, the said two several sums of £—— and £——, together with interest at the rate of £4 per centum per annum on the said sums from the —— day of ——, 188—. And that you [*or*, he] should have that money and interest (*Continue as in fi. fa. to the end*). And on the —— day of ——, 188—, you [*or*, the said sheriff] returned to us in the Chancery Division of our High Court of Justice aforesaid, that by virtue of the said writ to you [*or*, him] directed, you [*or*, he] had caused to be made (*Here recite the return to the end*). And afterwards the said A. B. came into our said Court, and according to the statute (*Continue as in* Form 972, *down to the first* until ; *and proceed thus :*) the sum of £——, residue of the said two several sums of £—— and £——, and interest as aforesaid, shall have been levied. Therefore we command you (*Proceed as in* Form 972, *down to the second* until, *and continue :*) the said sum of £——, residue of the said two several sums of £—— and £——, together with interest as aforesaid, shall have been levied. And in what manner (*Continue as in* Form 972, *to the end*).

---

976. Indorsements on the writ.

(*Same as* Forms 936 *to* 939.)

(B.) *Execution of the Writ* (*i*).

977. *Præcipe* for *subpœna ad test.* before the sheriff, upon the execution of a writ of *elegit*. Dan. Pr. 871.]

(*Same as* Form 733.)

---

978. *Præcipe* for *subpœna duces tecum*, in like case. [Dan. Pr. 871.]

(*Same as* Form 750.)

---

979. Writ of *subpœna ad test.* (and *duces tecum*) before sheriff, on execution of writ of *elegit*. [Dan. Pr. 871.]

(*Proceed as in* Form 734, *down to* attend before ; *and continue thus :*) our sheriff of —— at (*State where*) on —— the —— day of ——, 188—, by — of the clock in the forenoon, to testify the truth according to your knowledge in a certain action now depending in our High Court of Justice wherein A. B. is plaintiff, and C. D. and others are defendants, on the part of the plaintiff, in which action an inquiry will be then and there made of all such lands and tenements, rectories, tithes, rents, and hereditaments : including lands and hereditaments

(*i*) As to the proceedings upon an inquisition before the sheriff, see Dan. Pr. 871 ; Chitty's Forms, 426 ; Chitty's Arch. 597—599.

of copyhold or customary tenure: in the bailiwick of the said sheriff, as the said C. D., or any person or persons in trust for him, was or were seised or possessed of on the —— day of ——(*the day mentioned in the elegit*), or at any time afterwards, or over which the said C. D., on the —— day of ——, or at any time afterwards, had any disposing power which he might, without the assent of any other person, exercise for his own benefit;

In the case of a subpœna duces tecum, add: and that you then and there bring with you and produce (*Specify the documents to be produced*).

And hereof fail not at your peril.

Witness (*Conclude as in* Form 734).

980.

Indorsement on subpœna.

(*Same as* Form 3 *or* 4).

(C.) *The return of the Writ* (*j*).

981.

Notice to sheriff to return the writ (*k*). [Dan. Pr. 836, 837, 872, cccLxxxvii.]

(*Same as* Form 947, *substituting* "elegit" *for* "fieri facias.")

982.

Return where lands have been extended. [Dan. Pr. 872.]

The execution of this writ appears in the inquisition hereunto annexed.

The answer of X. Y., esquire, sheriff.

983.

The inquisition (*l*). [Dan. Pr. 871.]

—— to wit.—An inquisition, indented, taken at the house known as (*State where*), in the said county, on the —— day of ——, A.D. 188—, before me —— esquire, sheriff of the county aforesaid, by virtue of Her Majesty's writ of *elegit* to me the said sheriff directed, and to this inquisition annexed, on the oath of (*Names of the twelve jurors*), good and lawful men of my bailiwick: who, being duly sworn and charged to

(*j*) As to the return of the writ, see Chitty's Arch. 532—540; *Ibid.*, 599. When lands are extended under the writ, the sheriff ought to return it; in other cases, he does not, in general, do so, unless compelled to do so; but in any case he may be compelled to do so. The writ and inquisition must be returned and filed in the Court out of which the *elegit* issued. A fee of 2*s.* 6*d.* is payable on filing the writ with return: by a stamp impressed or adhesive: Ord. as to S. C. Fees, 1884, Sched. No. 29; Ord. as to Fees, &c., July, 1884, p. 6.

(*k*) See R. S. C. Ord. LII. 11; note (*z*) to Form 947.

(*l*) The inquisition must be engrossed on parchment, and indented at the top, and sealed by the sheriff and the jurors. It must describe particularly the lands extended, the estate therein of the judgment debtor, and the value thereof: see Chitty's Arch. 598.

inquire of the several matters in the said writ mentioned, on their oath say, that C. D. (*Name of the person against whom elegit issued*), in the said writ named, on the —— day of ——, 188— (*m*), was (*Here describe the premises and the estate of the judgment debtor therein, as thus:* seised in his demesne as of fee of a dwelling-house and premises, situate and being No. —, in —— Street, in the parish of ——, in the said county of ——), which said (dwelling-house and premises) the jurors aforesaid, on their oath aforesaid, do find to be of the annual value of £—— ; and which said (dwelling-house and premises) I, the said sheriff, on the day of taking this inquisition, have caused to be delivered to the said A. B. by a reasonable price and extent, as by the said writ I am commanded ; To hold the same to him the said A. B., and his assigns, according to the nature and tenure thereof, until the moneys in the said writ mentioned, with interest, as in the said writ also mentioned, shall have been levied. And the jurors aforesaid, upon their oath aforesaid, further say, that the said C. D. was not nor was nor were any person or persons in trust for him on the said —— day of ——, 188— (*n*), or at any time afterwards, seised or possessed of, nor had the said C. D. on the said —— day of ——, 188— (*n*), or at any time afterwards, any disposing power which he might, without the assent of any other person, exercise for his own benefit over any other or more lands or tenements, rectories, tithes, rents, or hereditaments, nor of nor over any lands or hereditaments of copyhold or customary tenure within my bailiwick, to the knowledge of the said jurors, which I, the said sheriff, can cause to be extended and appraised, as by the said writ I am commanded. In witness whereof I, the said sheriff, have hereto set my seal, and the jurors aforesaid have set their seals, the day, year, and place first above written.

X. Y., esquire, sheriff Seal.

A. A.
B. B.
&c. } (*Seals of the jurors.*)

984.

Return of nihil (*o*). [Dan. Pr. 874.]

The within-named C. D. has no lands or tenements, rectories, tithes, rents, or hereditaments, nor any lands or hereditaments of copyhold or customary tenure within my bailiwick, whereof I can cause to be levied the moneys and interest within mentioned, or any part thereof, as within I am commanded.

(*m*) Date of judgment or some subsequent day.
(*n*) Date of judgment.
(*o*) See Chitty's Arch. 599, 600.

985. Notice of motion or summons by judgment debtor for account of profits received by judgment creditor to whom lands have been delivered (*p*). [Dan. Pr. 874.]

(D.) *Taking an Account under an Elegit.*

Formal parts : see Form 38 *or* 43.

on the part of the defendant C. D. [*or as may be*].

1. That an account may be taken of what is due to the above-named plaintiff on the judgment [*or*, order] made in this action on the —— day of ——, 188—, and for his costs of this application and consequent thereon : such costs to be taxed.

2. That an account may be taken of the rents, issues and profits of (*Describe the premises as in the return to the elegit*), being the premises whereof possession was on the —— day of ——, 188—, delivered to the plaintiff by the sheriff of ——, under and by virtue of a writ of *elegit* issued in this action on the said judgment [*or*, order] on the —— day of ——, 188—, received by the said A. B. or by any other person or persons by his order, or for his use, or which without his wilful neglect or default might have been so received.

3. That if upon taking the said accounts it shall appear that the amount of the said rents, issues, and profits so received by the said A. B. as aforesaid, is less than the amount which shall appear to be due to the said A. B. upon the said judgment [*or*, order] and for costs as aforesaid, then the said C. D. may be at liberty to pay to the said A. B. what shall appear to be due to him upon the said judgment [*or*, order] and for costs as aforesaid, after deducting what shall appear to have been received by him for rents, issues, and profits as aforesaid. And that, upon such payment being made, the said A. B. may be ordered to deliver possession of the said (*Premises*) to the said C. D.

If the judgment and writ of execution have been registered (*q*), *add :* and also to procure satisfaction to be entered in the books kept by the Registrar of Judgments of this Court in respect of the said judgment [*or*, order], and of the said writ of *elegit*.

4. That if upon taking the said accounts it shall appear that the amount of the said rents, issues, and profits so received by the said A. B. as aforesaid, is greater than the amount which shall appear to be due to the said A. B., upon the said judgment [*or*, order] and for costs as aforesaid, then the said A. B. may be ordered to pay to the said C. D. what shall appear to have been received by him for rents, issues, and profits as aforesaid, after deducting what shall appear to be due to him upon the said judgment [*or*, order] and for costs as aforesaid. And that the said A. B. may also be ordered to deliver possession of the said (*Premises*) to the said C. D. (*Continue as in paragraph* 3, *supra*).

(*p*) By 1 & 2 Vict. c. 110, s. 11, a tenant by *elegit* is made subject to such account, in the Court out of which the writ of *elegit* is sued, as a tenant by *elegit* was formerly subject to in a Court of Equity. In taking the account, the tenant treated as a mortgagee in possession : Chitty's Arch. 601. He is liable therefore to account for what he might have received without his wilful default. For form of order, see 2 Seton, 1138, No. 2.

(*q*) As to the registration of judgments, see p. 366, note (*k*), Forms 917—923. As to the registration of writs of execution and entering satisfaction thereon, see Forms 1045—1048.

(4.) *The Writ of Attachment, Committal, and Process of Contempt.*

(*Dan. Pr.*, pp. 875—908, cccIxxxvii.—cccIxxxix.)

(A.) *Service of the Judgment or Order* (*a*).

986.

Notice of motion or summons to fix a time for obeying the judgment where no time limited thereby (*b*). [Dan. Pr. 877, note (*p*).]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that the defendant C. D. [*or as may be*] may be ordered on or before the —— day of ——, 188—, or subsequently within —— days after service of the order to be made hereon, to

Describe the act directed by the judgment or order; as thus: pay into Court to the credit of this action the sum of £1000,

pursuant to the judgment [*or*, order] dated the —— day of ——, 188—. And that the costs of this application may be costs in the action.

987.

The like to enlarge the time fixed (*c*). [Dan. Pr. 877.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that the time limited by the judgment [*or*, order] dated the —— day of ——, 188—, for the defendant C. D. [*or as may be*] to (*Describe the act to be done; see* Form 986) may be enlarged to the —— day of ——, 188—, or —— days after service of the order to be made hereon; and that the costs of this application may be costs in the action.

988.

Memorandum to be indorsed on copy judgment or order for service (*d*). [Dan. Pr. 876.]

If you the within named C. D. neglect to obey this judgment [*or*, order] by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey the same judgment [*or*, order].

(*a*) See R. S. C. Ord. XLII. 1; and note (*b*), at p. 359; XLI. 5; XLVII. 2. Service of the judgment is required except in the following cases, viz.:—

(1) Upon a judgment for payment or recovery of money, a *fi. fa.* or *elegit* may issue without service: R. S. C. Ord. XLII. 3, 17.

(2) Upon a judgment for *recovery of possession* of land, a *writ of possession* may issue without service: R. S. C. Ord. XLVII. 1.

(3) Upon a judgment for recovery of property other than money or land, a *writ of delivery* may issue without service: R. S. C. Ord. XLVIII. 1.

(*b*) See R. S. C. Ord. XLI. 5; and note (*a*), at p. 355. Where no time is fixed by the order, the Court will, by supplemental order (which must be indorsed and served as an original order), fix the time for doing the act directed by the original order. It seems that the application may be made by summons, where the defective order was obtained at Chambers; otherwise it will be by motion on notice: Dan. Pr. 876, 877, note (*p*).

(*c*) This application is necessary where the judgment names a specific day, and service is not effected before that day. The order to be made on the application need not bear the indorsement prescribed by R. S. C. Ord. XLI. 5: *Treherne* v. *Dale*, 27 Ch. D. 66: 33 W. R. 97.

(*d*) See R. S. C. Ord. XLI. 5; and note (*a*), at p. 355. The memorandum must be indorsed on an order for discovery, although it does not require personal service (see R. S. C. Ord. XXXI. 21, 22): *Hampden* v. *Wallis*, 26 Ch. D. 746: 32 W. R. 808.

989.

Motion paper or summons for substituted service of judgment or order (*e*). [Dan. Pr. 878.]

Formal parts: see Form 36 *or* 43.

To move on behalf of [*or*, on the hearing of an application on the part of] the plaintiff [*or as may be*], that service of the judgment [*or*, order] dated the —— day of ——, 188—, together with a copy of the order to be made hereon upon (*Describe the proposed substitute; as thus:*

X. Y., of (*residence and addition*); *or*,

X. Y. and T. Z., members of the firm of Y. & Z., of (*Place of business and addition*), or upon either of them),

may be deemed good service of the said judgment [*or*, order] on the defendant C. D.

990.

Affidavit in support. [Dan. Pr. 879.]

Formal parts: see Form 6.

1. (*Show what efforts have been made to effect personal service of the judgment or order, and why it cannot be effected.*)

2. (*Show upon what person or in what mode substituted service is proposed to be made, and the special grounds for selecting such person, &c.*)

3. (*Show means of knowledge.*)

991.

Affidavit of service of judgment or order.

(*Same as* Form 32.)

992.

Notice of motion or summons to enlarge the time for doing an act enjoined by the judgment or order (*f*). [Dan. Pr. 879.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant C. D., that the time limited by the judgment [*or*, order] dated the —— day of ——, 188—, for the applicant to (*Describe the act to be done: see* Form 986) may be enlarged to the —— day of ——, 188—.

(*e*) The service of the judgment or order must (unless otherwise authorised by the Court) be personal. Except in the case of an order for attachment, it is not necessary to the regular service of an order that the original order be shown, if an office copy is exhibited: R. S. C. Ord. LXVII. 1. Where prompt personal service cannot be effected, the Court or a Judge may order substituted or other service: R. S. C. Ord. LXVII. 6. For form of order, see 2 Seton, 1559, No. 1. For cases in which substituted service has been ordered, see Dan. Pr. 878, and notes thereto; 2 Seton, 1560.

(*f*) As to when the application should be by motion, and when by summons, see note (*b*) to Form 986.

(B.) *The Writ of Attachment* (*g*).

(i.) *Application for Leave to Issue the Writ.*

993. Notice of motion or summons for leave to issue writ of attachment (*h*). [Dan. Pr. 879.]

Formal parts : see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that he may be at liberty to issue a writ or writs of attachment against the defendant C. D. [*or as may be*] for his contempt in not (*Here state the act required to be done or abstained from*) (*i*), pursuant to the judgment [*or*, order] dated the —— day of ——, 188—. And that the said C. D. may be ordered to pay to the applicant his costs of this application, and also his costs of and incident to the issuing and execution of the said writ or writs of attachment.

---

994. Affidavit in support (*j*). [Dan. Pr. 880.]

Formal parts : see Form 6.

1. (*Prove service of the judgment or order ; see* Form 32.)

2. (*Prove default in obeying the judgment or order.*)

(*g*) *Attachment, when issued.*—A writ of attachment may issue in the cases following, viz. :—

(1) Upon a judgment or order for the recovery of property other than land or money : R. S. C. Ord. XLII. 6.

(2) Upon a judgment or order requiring any person to do any act other than the payment of money, or to abstain from doing anything : R. S. C. Ord. XLII. 7.

(3) Upon a judgment or order for the recovery by or payment to any person of money in cases within the exceptions specified in the Debtors Act, 1869 (32 & 33 Vict. c. 62) : R. S. C. Ord. XLII. 3.

(4) Upon a judgment or order for payment of money into Court in cases within the exceptions specified in the Debtors Act, 1869 : R. S. C. Ord. XLII. 4.

(5) Upon a judgment or order against a corporation wilfully disobeyed, against the directors or other officers thereof : R. S. C. Ord. XLII. 31.

(6) Upon non-compliance with an order to answer interrogatories, or for discovery or inspection : R. S. C. Ord. XXXI. 21.

(7) Where a solicitor, having been served with an order against his client, for interrogatories or discovery or inspection, neglects without reasonable excuse to give notice thereof to his client : R. S. C. Ord. XXXI. 23.

(8) Upon default by a solicitor to enter an appearance pursuant to his written undertaking : R. S. C. Ord. XII. 18.

As to writs of attachment, see Dan. Pr. 875—891 ; 2 Seton, 1566—1569.

(*h*) No writ of attachment can be issued without the leave of the Court or a Judge, to be applied for on notice to the party against whom the attachment is to be issued : R. S. C. Ord. XLIV. 2. The application is frequently made by summons : see *Snow* v. *Bolton*, 17 Ch. D. 433 ; *Salm Kyrburg* v. *Posnanski*, 13 Q. B. D. 218 : 32 W. R. 752 ; but see *contra*, *Re Knight*, *Knight* v. *Gardner*, W. N. (1883), 162, where Bacon, V.-C., held that the order must be obtained on motion. It is sufficient to serve the notice of motion or summons on the solicitors of the party sought to be attached : *Browning* v. *Sabin*, 5 Ch. D. 511. For forms of order, see 2 Seton, 1563—1565, Nos. 1, 2, 3, 4. It is generally prudent to ask for committal in the alternative : see Form 1013.

(*i*) The application must state in general terms the grounds of the application ; and where it is founded on evidence by affidavit, a copy of any affidavit intended to be used must be served with the notice of motion : R. S. C. Ord. LII. 4 ; see *Litchfield* v. *Jones*, 25 Ch. D. 64 : 32 W. R. 288.

(*j*) A copy of the affidavit must be served with the notice of motion : see R. S. C. Ord. LII. 4 ; and note (*i*), *supra*.

3. (*If the judgment or order is for the payment of money to any person or into Court, state the facts showing that the case comes within the exceptions mentioned in section 4 of the Debtors Act*, 1869 (*l*).)

4. (*Prove service of the notice of motion; see* Form 31.)

(ii.) *Issuing the Writ.*

995.

Præcipe for writ of attachment (*m*). [Dan. Pr. 884.]

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . Plaintiff,
and
C. D. and others . Defendants.

Seal, in pursuance of order dated the —— day of ——, an attachment directed to the sheriff of —— against C. D. for not (*Here specify the act required by the judgment or order to be performed*).

Dated —— day of ——, 188—.

(*Name and address of solicitor or party issuing the writ.*)

996.

Writ of attachment (*n*). [Dan. Pr. 884.]

(*Heading as in* Form 995.)

Victoria (*&c.: as in* Form 935).

To the sheriff of ——, greeting:

We command you to attach C. D., so as to have him before us in the

(*l*) 32 & 33 Vict. c. 62, s. 4. These exceptions are—(1) Default by a trustee or person acting in a fiduciary capacity, and ordered to pay any sum in his possession or under his control: (2) Default by a solicitor in payment of costs when ordered to pay costs for misconduct as such, or in payment of a sum of money, when ordered to pay the same in his character of an officer of the Court: (3) Default in payment of sums in respect of the payment of which orders are by the Act authorised to be made. By Debtors Act, 1878 (41 & 42 Vict. c. 54), a judicial discretion was given, enabling the Judge to deal with exceptional cases: see *Holroyde* v. *Garnett*, 20 Ch. D. 532; *Re Knowles, Doodson* v. *Turner*, W. N. (1883), 53.

(*m*) See R. S. C. Ord. XLII. 12; App. G., No. 10.

(*n*) See R. S. C. Ord. XLII. 14; App. H., No. 12. A writ of attachment has the same effect as a writ of attachment issued out of the Chancery Division has heretofore had: R. S. C. Ord. XLIV. 1; the judgment creditor therefore does not, by issuing such writ against his judgment debtor and arresting him thereunder, lose his right to proceed against the property of the debtor, as was formerly the case at law: *Roberts* v. *Ball*, 3 Sm. & G. 168; Dan. Pr. 863. The writ is issued out of the Writ, Appearance, and Judgment Department of the Central Office, or the District Registry. On issuing the writ, the judgment or order upon which it is to issue, and the order giving leave to issue it must be produced: R. S. C. Ord. XLII. 11. A fee of 5*s.* is payable on issuing the writ: by a stamp impressed on the *præcipe*: see Ord. as to S. C. Fees, 1884, Sched. No. 6; Ord. as to Fees, &c., July, 1884, p. 4. As to execution of the writ, see Dan. Pr. 884—886; Chitty's Arch. 1393. The sheriff may break open the outer door of the house in order to execute the writ: *Harvey* v. *Harvey*, 26 Ch. D. 644: 33 W. R. 76.

Chancery Division of our High Court of Justice wheresoever the said Court shall then be, there to answer to us, as well touching a contempt which he it is alleged hath committed against us, as also such other matters as shall be then and there laid to his charge, and further to perform and abide such order as our said Court shall make in this behalf, and hereof fail not, and bring this writ with you.

Witness (*Conclude as in* Form 935.)

997.

Notice to the sheriff indorsed on writ (*o*). [Dan. Pr. 884, ccclxxxviii.]

This writ, if issued for default in payment of money, is subject to the following limitations:—

If under section 4 of the Debtors Act, 1869, it does not authorise imprisonment for any longer period than *one year*.

If issued under section 5 of the same Act, it does not authorise imprisonment for any longer period than *six weeks*.

998.

Indorsement of name and address of party issuing the writ where issued by a solicitor (*p*). [Dan. Pr. 884.]

This writ was issued by X. Y., of (*place of abode or office of business*), agent for T. Z., of (*place of abode*), solicitor for the within-named plaintiff [*or as may be*], who resides at ——, and was issued for default in payment of money under section 4 of the Debtors Act, 1869 [*or*, was not issued for default in payment of money (*q*)].

999.

The like where writ issued by the party in person (*p*). [Dan. Pr. 884.]

(*Same as* Form 937 ; *and conclude as in* Form 998 (*q*)).

1000.

Indorsement of address of party against whom writ is issued.

(*Same as* Form 939).

1001.

Notice to return the writ (*r*).

(*Same as* Form 947, *but substituting* "writ of attachment" *for* "writ of *fieri facias*.")

(*o*) This note is appended where the writ is issued under the Debtors Act, 1869 (32 & 33 Vict. c. 62): see *Re Edwards, Brooke* v. *Edwards*, 21 Ch. D. 230. The jurisdiction under s. 5 of the Debtors Act, formerly vested in the High Court of Justice, is now vested in the Judge to whom bankruptcy business is assigned: see 46 & 47 Vict. c. 52, s. 103 ; Bankruptcy Rules, 1883, 265—270 ; Ord. 1st January, 1884 ; so that the second of the two limitations contained in the notice in the text is no longer necessary.

(*p*) See R. S. C. Ord. XLII. 13.

(*q*) The words not applicable to the case should be omitted.

(*r*) See R. S. C. Ord. LII. 11. The writ when returned is filed at the Central

(iii.) *The Return of the Writ.*

1002.

Return of attached and in prison. [Dan. Pr. 888.]

I have attached the within-named C. D., whose body remains in Her Majesty's gaol for my county of ——, under my custody.

The answer of X. Y., esquire, sheriff.

1003.

Return of *capi corpus*. [Dan. Pr. 887.]

I have attached the within-named C. D. as within I am commanded, whose body I have ready.

The answer of X. Y., esquire, sheriff.

1004.

Return of *non est inventus*. [Dan. Pr. 887.]

The within-named C. D. is not found in my bailiwick.

The answer of X. Y., esquire, sheriff.

(iv.) *Proceedings where the Sheriff returns Cepi Corpus* (*s*).

1005.

Motion paper for the tipstaff, where sheriff has taken bail. Dan. Pr. 888.]

Formal parts : see Form 36.

To move on behalf of the plaintiff [*or as may be*], that the tipstaff may apprehend the defendant C. D. [*or as may be*], and bring him to the bar : the Sheriff of —— having taken bail to an attachment for breach of the judgment [*or*, order] dated the ——, 188—.

The Sheriff's return accompanies.

1006.

Warrant to tipstaff, on order to apprehend defendant (*t*).

Whereas by an order bearing date the —— day of ——, 188—, made by his lordship Mr. Justice —— in a certain action wherein A. B. is plaintiff and C. D. is defendant, It was ordered that (*Set out mandatory part of order for the tipstaff*) : These are, therefore, in pursuance of the said order, to will and require you forthwith upon receipt hereof to make diligent search and inquiry after the body of the said A. B. ; and, wheresoever you shall find him, to arrest and apprehend him, and bring him to the bar of this Court, to answer his contempt in the said order mentioned : willing and requiring all and singular mayors, sheriffs, justices of the peace, bailiffs, constables, jailors, head-boroughs, and all other Her Majesty's officers and loving subjects, to be aiding in the execu-

Office, or in the District Registry. A fee of 2*s*. 6*d*. is payable on filing the writ with the return : by a stamp impressed or adhesive : Ord. as to S. C. Fees, 1884, Sched. No. 29 ; Ord. as to Fees, &c., July, 1884, p. 6.

(*s*) As to notice to sheriff after arrest by him before going out of office, and return of *cepi corpus*, see R. S. C. Ord. LII. 12.

(*t*) The warrant is procured by the tipstaff himself. It seems that under the present practice the tipstaff, upon arresting the defendant, hands him over to the governor of the gaol, and takes his receipt. He then communicates to the solicitor in the matter the fact of the arrest, handing the receipt to him.

tion of the premises, as they tender Her Majesty's service, and will answer the contrary at their peril; and this shall be your warrant.

Dated this —— day of ——, 188—.

—— C.

To Mr. X. Y., the tipstaff attending the Chancery Division of the High Court of Justice, or his deputy.

(v.) *Proceedings where the Sheriff returns Non Est Inventus.*

1007

Motion paper for the Serjeant-at-Arms, on Sheriff's return *non est inventus* (*u*).

[Dan. Pr. 889.]

Formal parts: see Form 36.

To move on behalf of the plaintiff [*or as may be*], that the Serjeant-at-Arms may apprehend the defendant C. D. [*or as may be*], and bring him to the bar for breach of the judgment [*or*, order] dated ——, 188—: the Sheriff having returned *non est inventus* to an attachment.

The judgment [*or*, order] and Sheriff's return accompany.

1008.

Motion paper to turn over contemnor, when brought up by the Serjeant-at-Arms (*v*).

[Dan. Pr. 890.]

Formal parts: *see* Form 36.

To move on behalf of the plaintiff [*or as may be*]: on the defendant C. D. [*or as may be*] being brought up by the Serjeant-at-Arms for breach of the judgment [*or*, order] dated the ——, 188—: that he be turned over to Holloway Prison.

(vi.) *Application for Habeas Corpus by Contemnor.*

1009.

Motion paper for writ of *habeas*, to bring up contemnor on his own application (*w*).

[Dan. Pr. 890, note (*n*).]

Formal parts: see Form 36.

To move on behalf of the defendant C. D. [*or as may be*], who is now a prisoner in the custody of the Sheriff of —— [*or*, of the Governor of Holloway Prison—*or as may be*], under an attachment issued against him for his contempt in not (*State default*) pursuant to the judgment [*or*, order] dated the —— day of ——, 188—, that a writ of *habeas corpus cum causis* may issue directed to the said Sheriff [*or*, to the Governor of Holloway Prison—*or as may be*], at the return thereof to bring the applicant to the bar of this Court.

(*u*) See Gen. Ord. Jan. 1870, r. 6 (which it seems is not repealed by R. S. C. 1883); R. S. C. Ord. XLII. 28, and note (*b*), at p. 361. For form of order, see 2 Seton, 1572, No. 1. It is believed that an application for serjeant-at-arms is very rare in modern practice.

(*v*) For form of order, see 2 Seton, 1573, No. 2.

(*w*) *Ibid.*, No. 3.

1010.

Petition of course for the like (*x*). [Dan. Pr. 890, note (*n*).]

Formal parts: see Form 39.

The humble petition of the defendant C. D.

Showeth as follows:

1. Your petitioner is now a prisoner in the custody of the Sheriff of ——, in the prison of W——, in the county of ——[*or*, of the Governor of Holloway Prison—*or as may be*], under an attachment issued against him for his contempt in not (*State default*) pursuant to the judgment [*or*, order] dated the —— day of ——, 188—.

Your petitioner therefore humbly prays that a writ of *habeas corpus cum causis* may issue directed to the said Sheriff and the Governor of the W. prison [*or*, to the Governor of Holloway Prison—*or as may be*], to bring the body of your petitioner to the bar of this Court, before the Honourable Mr. Justice ——, on ——day, the —— day of ——, 188—, to make any application touching his said contempt, and to be dealt with as the Court may direct.

1011.

Præcipe for the writ. [Dan. Pr. 890, note (*n*).]

(*Heading as in* Form 994).

Seal a writ of *habeas corpus* directed to the Sheriff of —— [*or as may be*], to bring the defendant C. D. to the bar of this Court before Mr. Justice ——, on ——day, the —— day of ——, 188—.

Order to issue the writ dated —— day of ——, 188—.

(*Name, &c., of solicitor or party issuing the writ.*)

1012.

The writ. [Dan. Pr. 890, note (*n*).]

(*Heading as in* Form 994).

Victoria (*&c.: as in* Form 935).

To the Sheriff of —— [*or*, To the keeper of our prison of W., in the county of ——, *or as may be*], greeting:

We command you that you do on ——, the —— day of ——, bring before us in the Chancery Division of our High Court of Justice, the body of C. D., by whatsoever name or addition of name he is known or called, who is detained in (*State place of custody; as:* the prison of W., in the said county of ——), in your custody, together with an account of the cause or causes of his being taken into and detained in custody: to perform and abide such order as our said Court shall make in this behalf; and hereof fail not, and bring this writ with you.

Witness (*&c.: Conclude as in* Form 935).

(*x*) For form of order, see 2 Seton, 1573, No. 4. For form of order to turn over a prisoner brought up on *habeas* obtained by himself, see *Ibid.*, No. 5.

(C.) *Enforcing by Committal to Prison* (*a*).

(i.) *For Breach of a Judgment or Order other than for the Payment of Money.*

1013.
Notice of motion for committal to prison (*b*). [Dan. Pr. 892.

Formal parts : see Form 38.

on the part of the plaintiff, that the defendant C. D. may stand committed to Holloway Prison for (*Here state the act or non-feasance which constitutes a breach of the judgment or order*), pursuant to the judgment [*or*, order] made in this action and dated the —— day of ——, 188—. And that the said defendant may be ordered to pay to the applicant his costs of and incidental to this application and the order to be made thereon.

1014.
Affidavit in support.

Formal parts : see Form 6.

1. (*Prove service of the judgment or order : see* Form 32.)
2. (*Prove breach of the judgment or order.*)
3. (*Prove service of the notice of motion to commit : see* Form 31.)

(ii.) *Committal for Special Contempts* (*c*).

(*a*) *Order for committal : when obtainable.*—A person may be committed to prison in the cases following, viz. :—

(1.) For disobedience to a judgment or order requiring him to do any act other than the payment of money, or to abstain from doing anything : R. S. C. Ord. XLII. 7.

(2.) Special contempts.

(3.) For contempt by sheriff in not making a return to a writ of execution, or in not bringing in the body of a person ordered to be attached or committed : R. S. C. Ord. LII. 11.

An order for committal might also have been made prior to 1st January, 1884, upon a judgment or order for payment of money to any person, upon proof of means, and neglect or refusal to pay : 32 & 33 Vict. c. 62, s. 5. But by the combined effect of 46 & 47 Vict. c. 52, s. 103, Bankruptcy Rules, 1883, r. 265, and order of Lord Chancellor, 1st January, 1884, the jurisdiction and powers under s. 5 of the Debtors Act, 1869, have been assigned to, and are now exerciseable by, the Judge to whom bankruptcy business is assigned. No order for committal can therefore be obtained, except by application in bankruptcy, in a case within s. 5 of the Debtors Act, 1869.

(*b*) See R. S. C. Ord. XLII. 7 ; note (*a*), *supra*, and note (*b*), at p. 359. If the order for committal is made, it will be drawn up by the Registrar, and when passed and entered must be delivered to the tipstaff, with instructions for the caption. If the process is to be executed more than twelve miles from London, the tipstaff must procure the Lord Chancellor's warrant. For form of warrant, see Form 1006. An order for attachment may be made instead of an order for committal.

(*c*) As to special contempts, see Dan. Pr. 897—900, and the cases cited in the notes thereto ; 2 Seton, 1588—1590. Formerly, in cases where the Court itself took notice of the contempt, an order *nisi* for committal was made in the first instance. But, by R. S. C. Ord. LII. 2, no application for a rule *nisi* is to be made in any action. It is presumed, therefore, that the application will now always be made by motion on notice.

1015.
Notice of motion for committal, for a contempt of Court (*d*). [Dan. Pr. 898.]

Formal parts: see Form 38.
on the part of the plaintiff [*or as may be*], that the defendant A. B. [*or*, A. B., of (*residence and addition*)], may be committed to prison for a contempt of this honourable Court in (*State what; as thus:* writing and procuring to be published, in a newspaper called "The Times," of the —— day of ——, instant, a certain letter signed X. Y.) (*e*).

(iii.) *Committal of Sheriff for not returning Writ.*

1016.
Notice of motion for committal of sheriff (*f*). [Dan. Pr. 836, cclxxxvii.]

Formal parts: see Form 38.
on behalf of the plaintiff [*or as may be*], that: the sheriff of —— not having returned the writ of (*State nature of writ;* as thus: *fieri facias, or*, attachment, *or as may be*), issued in this action against the defendant [*or as may be*], notwithstanding notice has been duly served upon him to return the same on or before the —— day of —— instant: the said sheriff may stand committed to Holloway Prison for his said contempt.

(D.) *Obtaining Discharge from Custody and Clearing Contempt.*

1017.
Notice of motion by an officer, witness, or suitor, to be discharged from custody, where protected from arrest (*g*). [Dan. Pr. 896, cclxxxviii.]

Formal parts: see Form 38.
on the part of C. D., of (*residence and addition*), one of the solicitors of the Supreme Court [*or as may be*], that, on the ground of privilege, he may be discharged out of the custody of the Sheriff of Middlesex [*or as may be*], under a writ of attachment issued against him on the —— day of ——, 188—, for breach of the order dated the —— day of ——, 188—, in not (*Here describe the default*): the said C. D. having been, at the time of his arrest under the said writ, on his way to attend a summons at, *&c.*, as solicitor on behalf of, *&c.* [*or as may be*].

And that A. B., the person on whose behalf the said writ was issued, and E. F., esquire, the said Sheriff, and G. H., his officer, may be ordered to pay to the said C. D. his costs occasioned by the execution of the said attachment, and of this application and consequent thereon.

(*d*) See note (*c*), *supra*. For forms of order, see 2 Seton, 1587, Nos. 1, 2, 3. An appeal will lie against a refusal by a Judge of first instance to commit for contempt: *Jarmain* v. *Chatterton*, 20 Ch. D. 493: 30 W. R. 461.

(*e*) For form of order for committal of a newspaper editor for publishing an article reflecting on witnesses, see 2 Seton, 1587, No. 3. See *Buenos Ayres Co.* v. *Wilde*, W. N. (1880), 95. In *Kitteat* v. *Sharp*, W. N. (1882), 183: 31 W. R. 227, an order was made to restrain the defendant from printing and publishing the statement of claim.

(*f*) As to notice to sheriff to return the writ, see R. S. C. Ord. LII. 11, and Form 947. For form of affidavit in support of the application, see Chitty's Forms, 414. For forms, under the old practice, of orders *nisi* and absolute, see 2 Seton, 1571, 1572, Nos. 3, 4.

(*g*) As to privilege from arrest, see 2 Seton, 1590; *Re Freston*, 11 Q. B. D. 545.

1018.
Motion paper to obtain discharge from custody (*h*). [Dan. Pr. 901, cccIxxxix.]

Formal parts: se Form 36.

To move on behalf of the defendant C. D., that he may be discharged out of the custody of the Governor of Holloway Prison [*or as may be*], as to his contempt in not (*Here specify the act required to be done*), pursuant to the judgment [*or*, order] made in this action and dated —— day of ——, 188—: the said defendant having now (*State the act done*), pursuant to the said judgment [*or*, order].

1019.
Petition of course for the like. [Dan. Pr. 901.]

Formal parts: see Form 39.

The humble petition of the defendant C. D.

Showeth as follows:

1. By a judgment [*or*, order] of this Court made in this action and dated the —— day of ——, 188—, it was adjudged [*or*, ordered] that (*Here recite the mandatory part of the judgment or order*).

2. Your petitioner is now in the custody of the Governor of Holloway Prison [*or as may be*], under an attachment issued against him for a contempt incurred by him in not (*Here specify the act required to be done*), pursuant to the said judgment [*or*, order].

3. Your petitioner has now (*State the act done*); pursuant to the said judgment [*or*, order].

Your petitioner therefore humbly prays, that he may be discharged out of the said custody as to his said contempt.

1020.
Notice of motion for discharge from custody (*i*). [Dan. Pr. 901.]

Formal parts: see Form 38.

on the part of the defendant C. D., that he may be discharged out of the custody of the Governor of Holloway Prison [*or as may be*], as to his contempt in not (*Here specify the act required to be done or abstained from*), pursuant to the judgment [*or*, order] made in this action and dated —— day of ——, 188—.

(*h*) For forms of order to discharge prisoner in custody under an attachment, see 2 Seton, 1593, 1594, Nos. 1, 2, 3. For form of order to discharge a prisoner detained under the Debtors Act, 1869 (32 & 33 Vict. c. 62), after being in custody for one year, *Ibid.*, 1594, No. 4. But it seems that in such case the prisoner can be discharged without order if there has been appended to the writ a note to the effect that it does not authorise imprisonment for a longer period than a year: see Form 997; *Re Edwards, Brooke* v. *Edwards*, 21 Ch. D. 230. For forms of order for discharge under the Debtors Act, 1878 (41 & 42 Vict. c. 54), see 2 Seton, 1594, 1595, Nos. 5, 6.

(*i*) For forms of order on motion, see 2 Seton, 1593, Nos. 1, 2.

1021.

Notice of motion for discharge from a special contempt of Court (*j*). [Dan. Pr. 902.]

Formal parts: see Form 38.

on the part of (the defendant) A. B., now a prisoner in Holloway Prison, by virtue of an order dated the —— day of ——, 188—, for the contempt therein mentioned of this honourable Court, that, upon payment or tender by him of the costs of his said contempt, he may be discharged from the custody of the Governor of the said prison, as to his said contempt.

(E.) *Application to Discharge Process of Contempt.*

1022.

Notice of motion to discharge order for attachment for irregularity (*k*). [Dan. Pr. 907.]

Formal parts: see Form 38.

on behalf of (the defendant) C. D., a prisoner in the custody of the Governor of Holloway Prison [*or as may be*], under a writ of attachment issued pursuant to order dated the —— day of ——, 188—, that the said order may be discharged, and the writ of attachment issued pursuant thereto set aside, on the ground that (*Here state the alleged irregularity* (*l*); *as thus:* the order dated the —— day of ——, 188—, for breach of which the said writ of attachment issued did not bear the indorsement provided by the Rules of the Supreme Court, Order XLI. rule 5); and that the applicant may be discharged out of custody as to his said contempt. And that the plaintiff [*or as may be*] may be ordered to pay to the applicant his costs of and relating to the said order, and the said attachment and consequent thereon, and of this application: such costs to be taxed.

(5.) *The Writ of Sequestration* (*a*).

(*Dan. Pr.*, pp. 908—925, ccclxxxix.)

(*j*) For form of order in like case, upon payment of a sum of money towards discharge of costs to be taxed, and subject to the payment of the balance, if any, of such costs, see 2 Seton, 1594, No. 3.

(*k*) As to discharge, on the ground of irregularity, see 2 Seton, 1597. For form of order, *Ibid.*, 1595, No. 7.

(*l*) See R. S. C. Ord. LXX. 3.

(*a*) *Writ of sequestration: in what cases.*—A writ of sequestration may issue in the cases following, viz.:—

A. *Without further order.*

(1.) On a judgment or order directing any person to pay money or costs in a limited time: Debtors Act (32 & 33 Vict. c. 62), s. 8; Ord. 7 Jan. 1870, r. 3.

(2.) On a judgment or order for payment of money into Court: R. S. C. Ord. XLII. 4.

(3.) On a judgment or order for the recovery of any property other than land or money: R. S. C. Ord. XLII. 6.

(4.) On a judgment or order directing any person to pay money into Court, or to do any other act in a limited time: R. S. C. Ord. XLIII. 6.

B. *By order.*

(1.) Upon any judgment or order against a corporation wilfully disobeyed,

(A.) *Leave to Issue the Writ.*

1023.

Summons for leave to issue sequestration to enforce payment of costs (*b*). [Dan. Pr. 911.]

Formal parts : see Form 43.

on the part of the plaintiff [*or as may be*], that he may be at liberty to sue out a writ of sequestration against the defendant C. D. [*or as may be*] for non-payment of the sum of £——, the amount of taxed costs by the judgment [*or*, order] dated the —— day of ——, 188—, directed to be taxed and be paid by the said C. D. to the applicant.

1024.

Notice of motion or summons for leave to issue sequestration against the property of a corporation, or of the directors or officers thereof (*c*). [Dan. Pr. 896, cclxxxix.]

Formal parts : see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that he may be at liberty to sue out a writ of sequestration, directed to commissioners to be therein named, to sequester the goods, chattels, and personal estate, and the rents, issues, and profits of the real estate of the defendants the M., &c., Company,

Or, of A. B., C. D., and E. F., the directors of the defendants the M., &c., Company,

for contempt of this Court committed by the said defendants the M., &c., Company, in wilfully disobeying the judgment [*or*, order] of this Court dated the —— day of ——, 188—, whereby the said defendant company were ordered to (*Set out the ordering part of the judgment or order*) ; and that the costs of this application may be paid by the defendants the M., &c., Company.

sequestration may issue against (*a*) the corporate property ; (*b*), the property of the directors or other officers thereof : R. S. C. Ord. XLII. 31.

(2.) To enforce payment of costs : R. S. C. Ord. XLIII. 7.

(3.) Upon return to a writ of attachment : Ord. 7 Jan. 1870, r. 6.

As to process of sequestration, nature of sequestration, and property liable to sequestration : see 2 Seton, 1577—1579 ; Dan. Pr. 908—925 ; Chitty's Arch. 621—623.

(*b*) See R. S. C. Ord. XLIII. 7. The application should be by summons : *Snow* v. *Bolton*, 17 Ch. D. 433. In support of the application the certificate of the Taxing Master must be produced, together with an affidavit proving service of the judgment or order, default in payment of the costs as taxed, and the special reasons which exist for resorting to a sequestration to enforce payment. For form of order for sequestration for non-payment of costs, after service of *subpœna* for costs under the old practice : such *subpœna* being now abolished by R. S. C. Ord. XLIII. 7 : see 2 Seton, 1575, No. 4. For form of writ in like case, see Dan. Forms, 2nd Ed., Form 944.

(*c*) See R. S. C. Ord. XLII. 31 ; and note (*b*), at p. 361. It is apprehended that the application will in general be made by motion. For forms of order for sequestration against a Local Board, for breach of an injunction, and against a railway company for breach of an undertaking, see 1 Seton, 296, Nos. 3, 4.

1025.

Motion paper for a sequestration, on sheriff's return to an attachment (*d*). [Dan. Pr. 888, 889.]

Formal parts : see Form 36.

To move on behalf of the plaintiff [*or as may be*], for a sequestration against the defendant A. B. [*or as may be*] for breach of the judgment [*or*, order] dated the —— day of ——, 188— : on the sheriff's return to an attachment.

The judgment [*or*, order], and sheriff's return, accompany.

1026.

The like, on keeper's certificate, or Serjeant-at-Arms' return (*e*). [Dan. Pr. 890.]

Proceed as in last Form to 188— ; *and add :*

on the certificate of the Governor of Holloway Prison that he is in his custody [*or*, the Serjeant-at-Arms having returned *non est inventus*].

The judgment [*or*, order], and the Governor's certificate [*or*, Serjeant-at-Arms' return], accompany.

(B.) *Issuing the Writ.*

1027.

Præcipe for writ of sequestration (*f*). [Dan. Pr. 913.]

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . Plaintiff,
and
C. D. and others . Defendants.

Seal a writ of sequestration against C. D. for not (*Here describe the default*), at the suit of A. B., directed to —— (*g*).

Judgment [*or*, order] dated —— day of ——, 188—.

Dated —— day of ——, 188—.

(*Name and address of solicitor or party issuing the writ.*)

1028.

Writ of sequestration (*h*). [Dan. Pr. 913.]

(*Heading as in* Form 1027.)

Victoria (*&c. : as in* Form 935).

(*d*) See Ord. 7 Jan. 1870, r. 6. As to returns to writ of attachment, see Dan. Pr. 887—889. For form of order, see 2 Seton, 1574, No. 1.

(*e*) For form of motion-paper for the Serjeant-at-Arms, see Form 1007. For form of order for sequestration on keeper's certificate, see 2 Seton, 1575, No. 3 ; and for form of order on return of *non est inventus* by Serjeant-at-Arms, *Ibid.*, No. 2.

(*f*) See R. S. C. Ord. XLII. 12 ; App. G., No. 6.

(*g*) Here insert the names of the commissioners : see note (*i*), to Form 1028.

(*h*) See R. S. C. Ord. XLII. 14 ; App. H., No. 13. The writ cannot be issued until after service of the judgment or order, and the expiration of the time limited for doing the act thereby directed : R. S. C. Ord. XLIII. 6. For cases in which leave is required to issue the writ, see note (*a*) at p. 404. The writ is issued out of

To —— (*i*), greeting:

Whereas lately in our High Court of Justice, in a certain action there depending, wherein A. B. is plaintiff, and C. D. and others are defendants [*or*, in a certain matter there depending, intituled "In the matter of E. F.;" *or as may be*], by a judgment [*or*, order] of our said Court made in the said action [*or*, matter], and bearing date the —— day of ——, 188—, it was ordered that the said C. D. should (*Here recite the judgment or order, so far as it directs the payment of money into Court or other act*) (*j*). Know ye, therefore, that we, in confidence of your prudence and fidelity, have given, and by these presents do give, to you, or any three or two of you, full power and authority to enter upon (*k*) all the messuages, lands, tenements, and real estate whatsoever of the said C. D., and to collect, receive, and sequester into your hands not only all the rents and profits of his said messuages, lands, tenements, and real estate, but also all his goods, chattels, and personal estate whatsoever; and therefore we command you, any three or two of you, that you do at certain proper and convenient days and hours, go to and enter upon all the messuages, lands, tenements, and real estate of the said C. D., and that you do collect, take, and get into your hands not only the rents and profits of his said real estate, but also all his goods, chattels, and personal estate, and detain and keep the same under sequestration in your hands until the said C. D. shall (*Here state the act to be done, as in the judgment or order*), clear his contempt, and our said Court make other order to the contrary.

Witness (*&c.: Conclude as in* Form 935). -

1029. Indorsement of name and address of solicitor or party issuing writ.

(*Same as* Form 936 *or* 937.)

1030. Indorsement of address of defendant.

The defendant is a ——, and resides at ——.

---

the Writ, Appearance, and Judgment Department of the Central Office, or out of the District Registry. On issuing a fee of 5*s.* is payable: by a stamp impressed on the *præcipe:* see Ord. as to S. C. Fees, Sched. No. 6; Ord. as to Fees, &c., July, 1884, p. 4. The judgment or order must be produced, with an affidavit of service, and of breach of the order: R. S. C. Ord. XLII. 11. The writ of sequestration when issued has the same effect as a similar writ in Chancery formerly had, and the proceeds of such sequestration may be dealt with in the same manner as the proceeds of such writs were formerly dealt with by the Court of Chancery: R. S. C. Ord. XLIII. 6.

(*i*) The writ of sequestration must be directed to not less than four persons, nominated by the party issuing the writ; and care should be taken that they are able to answer for what shall come to their hands in case they should be called upon to account: Dan. Pr. 912.

(*j*) See R. S. C. Ord. XLIII. 6.

(*k*) As to the property liable to sequestration, see Dan. Pr. 914—916; 2 Seton, 1578, 1579.

1031.

Return *nulla bona* to a sequestration (*l*). [Dan. Pr. 913.]

(C.) *The Return of the Writ.*

To Her Majesty's High Court of Justice.

By virtue of the within writ, we do certify that we have made diligent search and inquiry after the real estate, and goods, chattels, and personal estate, of the within-named C. D., but cannot find that he is possessed of any real or personal estate that we can sequestrate and take into our hands, as by the within writ we are commanded. Witness our hands the —— day of ——, 188—.

X. Y. }
T. Z. } Sequestrators.

1032.

Motion paper for order for writ of *sequestrari facias de bonis ecclesiasticis* to issue upon a judgment directing an act, other than payment of money, to be done (*m*). [Dan. Pr. 913.]

Formal parts : see Form 36.

To move on behalf of the plaintiff [*or as may be*], for a writ of *sequestrari facias de bonis ecclesiasticis*, directed to the bishop [*or*, archbishop] of ——, against C. D. for not (*Here describe the default*).

The writ of sequestration, and the sequestrator's return, accompany.

1033.

Præcipe for the writ.

(*Same as* Form 967.)

1034.

Writ of *sequestrari facias de bonis ecclesiasticis* (*n*). [Dan. Pr. 913.]

Proceed as in Form 968, *down to* "greeting" ; *and continue thus :*

Whereas by our writ we lately gave unto (*Names of sequestrators*), or any three or two of them, full power and authority to enter upon, *&c.*, and thereby commanded them, any three or two of them, that they should (*&c. Recite the writ of sequestration*). Whereupon the said (*Sequestrators' names*) returned to us in the Chancery Division of our said High Court of Justice, that the said C. D. was a beneficed clerk ; that is to say, rector of the rectory [*or*, vicar of the vicarage] and parish church of ——, in the county of ——, and within your diocese [*or*, within the diocese of ——, which is in the province of Canterbury, as

(*l*) If the return is filed (which is not usual), a fee of 2*s.* 6*d.* is payable : by a stamp impressed or adhesive : Ord. as to S. C. Fees, 1884, Sched. No. 29 ; Ord. as to Fees, &c., July, 1884, p. 6.

(*m*) This application is necessary when the sequestrators return that defendant is a beneficed clerk and has no lay property. The order need not in general be drawn up : see R. S. C. Ord. LII. 14. A memorandum of the order signed by the registrar will be a sufficient authority for issue of the writ. A fee of 3*s.* is payable on such memorandum : by a stamp impressed or adhesive : Ord. as to S. C. Fees, 1884, Sched. No. 67 ; Ord. as to Fees, &c., July, 1884, p. 9.

(*n*) The writ is issued out of the Central Office, or District Registry. A fee of 5*s.* is payable on issuing it by a stamp impressed on the *præcipe :* Ord. as to S. C. Fees, 1884, Sched. No. 6 ; Ord. as to Fees, &c., July, 1884, p. 4.

ordinary of that church, the episcopal see of —— being now vacant], and that the said C. D. had not any messuages, lands, tenements, or real estate, the rents and profits whereof, nor any goods, chattels, or personal estate which, they could detain and sequester as commanded by our said writ (*as in return*). Therefore we command you, that you enter into the said rectory [*or*, vicarage] and parish church of ——, and take and sequester the same into your possession, and also all the rents, tithes, oblations, obventions, fruits, issues, and profits thereof, and other ecclesiastical goods in your diocese [*or*, in the diocese of —— aforesaid], of the said C. D., until the said C. D. shall (*Here state the act to be done, as in the judgment or order*), clear his contempt, and our said Court make other order to the contrary.

Witness (*&c.: Conclude as in* Form 935).

—

1035. Indorsements on the writ.

(*Same as* Forms 936 *or* 937, *and* 966.)

(D.) *Execution of the Writ* (*o*).

1036. General notice by sequestrators. [Dan. Pr. 917.]

(*Heading as in* Form 1027).

To E. F., of, *&c.*, and to whom else it may concern.

Whereas the above-named C. D. formerly carried on business at, *&c.*, and resided at, *&c.*, and now has offices at, *&c.*

Now we, the undersigned (being the sequestrators named in the writ of sequestration hereinafter set forth), hereby give you, and each and every of you, notice that a writ of sequestration has been issued out of Her Majesty's High Court of Justice, in the words and figures following, that is to say: (*Here set out a verbatim copy of the writ*); and which said writ is indorsed as follows: (*Here set out a copy of the indorsement*).

And further take notice that we require from you, and each and every of you, an account of the messuages, lands, tenements, and real estate whatsoever of the said C. D. in your possession, tenure, and occupation; and also an account of all his goods, chattels, and personal estate whatsoever, in your possession, custody, or power; and also an account of all other the real and leasehold and other personal estate whatsoever of the said C. D.; and that you, and every of you, desist from aiding and abetting the said C. D. in disposing of the same, or any part thereof respectively.

And take notice that we the undersigned require you, and each and every of you, to pay to us all rents, issues, profits and annual proceeds, interest, dividends and annuities, debts and all other sum or sums of money whatsoever now due and payable from you respectively to the

(*o*) As to proceedings under sequestration, and the powers and duties of sequestrators, see Dan. Pr. 915—920; 2 Seton, 1579—1582.

said C. D., or which may hereafter grow or accrue due or become owing and payable from you respectively to the said C. D.

Dated —— day of ——, 188—.

X. Y.
T. Z.

NOTE.—All communications to be addressed to Messrs. L. & M., solicitors, of, *&c.*

1037.

Notice to tenant to attorn to sequestrators (*p*). [Dan. Pr. 917.]

(*Heading as in* Form 1027.)

We, X. Y. and T. Z., the sequestrators acting under the sequestration issued in this action on the —— day of ——, 188—, against the property of the defendant C. D., hereby give you notice and require you to attorn and become tenant to us for (*Describe the property; as thus:* all that farm called the Bourne, situate at ——, in the county of ——), and for such other part or parts of the real estate of the said C. D. as is or are in your occupation; and to pay to us your rent in arrear and growing rent for the said premises.

Dated this —— day of ——, 188—.

X. Y.
T. Z.

To G. H., of (*residence and addition*).

1038.

Attornment thereon. [Dan. Pr. 917.]

(*Heading as in* Form 1027.)

I, G. H., of (*residence and addition*), attorn and become tenant to X. Y. and T. Z., the sequestrators acting under the sequestration issued in this action on the —— day of ——, 188—, against the property of the defendant C. D., for all that (*Describe the property; see description in last form*), with the appurtenances, as the same are now in my occupation: to hold the same at and under the same rent, and subject to the same covenants and conditions, as I now hold the same. And I have this day paid to the said X. Y. and T. Z. the sum of (one shilling) for and on account and in part payment of the said rent. Dated this —— day of ——, 188—.

Witness: G. H.

L. M., of (*residence and addition*).

1039.

Notice of motion or summons for tenant to attorn (*q*). [Dan. Pr. 917.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that G. H., of (*residence and addition*), may be ordered, within (eight) days after service, to attorn and become tenant for the (*Describe the property: see* Form 1037), and to pay his rent in arrear and growing rent for the same to X. Y. and T. Z., the sequestrators acting under the sequestration issued in this action on the —— day of ——, 188—, against the defendant C. D.

(*p*) As to service of notice on tenants, and mode of service, see Dan. Pr. 917.
(*q*) For form of order, see 2 Seton, 1581, No. 3.

1040.
Affidavit in support.

Formal parts: see Form 6.

1. (*Prove service of the notice to attorn: see* Form 35.)

2. *If the service was personal, prove production of the sequestration; as thus:* At the time of the service aforesaid of the said notice, I showed to the said (*tenant's name*) the writ of sequestration in the said notice mentioned or referred to, and which said writ appeared to me to have been regularly issued out of, and to be under the seal of, the Central Office of this honourable Court.

Or, if the service was not personal, prove service of the sequestration; as thus: At the time of the service aforesaid of the said notice, I served the said (*tenant's name*) with the writ of sequestration therein mentioned or referred to, and which appeared to me to have been regularly issued out of, and to be under the seal of, the Central Office of this honourable Court, by delivering to, and leaving with, the said (*State whom*) a true copy of the said writ, and of the indorsement thereon; and I at the same time showed to the said (*State whom*) the said writ so under seal as aforesaid.

3. (*Prove service of the notice of motion or summons to attorn: see* Form 31 *or* 34.)

1041.
Motion paper, notice of motion, or summons, for leave to sell certain personal property sequestered (*r*).
[Dan. Pr. 916.]

Formal parts: see Form 36 *or* 38 *or* 43.

To move on behalf of [*or*, on the hearing of an application on the part of] X. Y. and T. Z., the sequestrators acting under the writ of sequestration issued in this action on the —— against the above-named C. D., and on behalf of [*or*, on the part of] the above-named A. B. (*Person at whose instance the sequestration was issued*):

1. That the sequestrators acting under the said writ of sequestration, or any three or two of them, may be at liberty to sell, or cause to be sold, the goods, chattels, and effects of the said C. D., to wit, divers packages, numbered, *&c.*, or other his goods, chattels, and effects, now stored at Messrs. T. & Co.'s, at their repository at, *&c.*; and also divers other his goods, chattels, and effects, now at his office situate at, *&c.*; and at the residence of R. H., situate at, *&c.*; and other goods, chattels, and effects, and personal estate and property of the said C. D. of a like nature now under the control of the said sequestrators.

2. That the said sequestrators may be at liberty to pay the money arising from such sales to the said A. B.

3. And that the said sequestrators, or any three or two of them, may be at liberty to remove all deeds, books, and papers or other unsaleable effects and property of the said C. D., or in his custody or control, or held on his behalf, as a solicitor for other persons, from the offices of the

(*r*) Where the person against whom the sequestration is issued cannot be served, the application may be *ex parte*: otherwise it is by motion, or summons, on notice. For form of order on *ex parte* motion, see *Re Rush*, M. R., 10 Feb. 1870, Reg. Lib. B. 337; 18 W. R. 417. For forms of order on notice, see 2 Seton, 1579—1581, Nos. 1, 2.

said C. D., situate at, *&c.*, or elsewhere soever the same may have been deposited by or on behalf of the said C. D., to a convenient place under the control of the said sequestrators.

1042.

Notice of motion or summons for sequestrators to account (*s*). [Dan. Pr. 920.]

Formal parts: see Form 38 *or* 43.

that X. Y., *&c.*, the sequestrators acting under the writ of sequestration issued in this action on the —— day of ——, 188—, against the defendant C. D., may be ordered to leave their accounts in the Chambers of Mr. Justice ——, in the Royal Courts of Justice, Strand, London, on or before the —— day of ——, 188—, or within (eight) days after service, and at such other times as the said Judge shall appoint; and to pay the balances appearing due on their accounts, or such part thereof as the Chief Clerk shall certify as proper to be paid by them, into Court, to the credit of this action, within ten days after the Chief Clerk's certificate of the result of such accounts respectively shall become absolute, or at such other periods as the Judge shall direct.

(E.) *Examination pro interesse suo.*

1043.

Notice of motion or summons for an examination *pro interesse suo* (*t*). [Dan. Pr. 921, 922.]

Formal parts: see Form 38 *or* 43.

on the part of G. H., of (*residence and addition*), that an inquiry may be made whether the said G. H. has any and what interest in the real and personal estate [*or as may be*] sequestered by X. Y. and T. Z., the sequestrators acting under the writ of sequestration issued in this action on the —— day of ——, 188—, against the defendant C. D., or in any and what part thereof.

(F.) *Dissolving the Sequestration.*

1044.

Notice of motion or summons for dissolution of sequestration, and discharge of sequestrators (*u*). [Dan. Pr. 925.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant C. D.:

1. That the writ of sequestration issued against the defendant C. D., on the —— day of ——, 188—, for not obeying the judgment [*or*, order], dated —— day of ——, 188—, may stand dissolved.

2. That the costs of the plaintiff, and the costs, charges, and expenses of the sequestrators acting under the said writ, of and incidental to the said sequestration: including therein all usual and proper allowances to the said sequestrators in respect of their office: and their costs of this application, and of and incidental thereto, may be taxed by the taxing master as between solicitor and client, in case the parties differ about

(*s*) For form of order, see 2 Seton, 1580, No. 2.

(*t*) For forms of order, see 2 Seton, 1583, Nos. 1, 2. As to examination *pro interesse suo* generally, see *Ibid.*, 1584, 1585; Dan. Pr. 921—923.

(*u*) For form of order, see 2 Seton, 1586.

the same, and be respectively (paid and) retained by the said sequestrators in manner hereinafter mentioned.

3. That X. Y., T. Z., *&c.*, the sequestrators acting under the said writ, may be ordered to withdraw from possession of the real estate of the defendant C. D., situate at, *&c.*: being the property taken possession of by the said sequestrators under the said sequestration; and from the receipt of the rents and profits thereof, within ten days after service of the order to be made on this application.

4. That the said sequestrators may be ordered within the time aforesaid to give notice to the tenants of such withdrawal; and be allowed their costs thereof, as between solicitor and client, in their costs hereinbefore directed to be taxed and retained.

5. That the said sequestrators may be directed to pay the plaintiff's said costs, and be at liberty to retain such costs, and their own costs, and costs, charges and expenses: when respectively taxed or agreed as aforesaid: out of moneys in their hands; and be allowed the same in their accounts, as payments properly made by them out of such moneys.

6. That the said sequestrators may be ordered to pay what shall be found due from them on the balance of their accounts to the defendant C. D., or as he may direct, within ten days from the date of filing of the Chief Clerk's certificate, or within such other period as the judge shall direct. And that thereupon the said sequestrators may be released and discharged from all liability in respect of their said office.

(6.) *Enforcing Judgments by Sale of the Debtor's Interest in Land.*

(*Dan. Pr.*, pp. 925—934, cccIxxxix.)

(A.) *Registration of Writs of Execution pursuant to* 27 *&* 28 *Vict. c.* 112 (*a*).

1045. Memorandum for the registry of a writ of execution, pursuant to 27 & 28 Vict. c. 112 (*b*). [Dan. Pr. 930.]

NAME OF THE DEBTOR.		
Surname.	Christian name or names.	Writ of *elegit* [*or as may be*]: Filed for registration on the —— day of ——, 188—.
Brown.	Edward James.	
PLACE OF ABODE, AND TITLE, TRADE, OR PROFESSION.		
No. 800, Oxford Street, in the county of Middlesex, Linendraper.		

[In

(*a*) See 27 & 28 Vict. c. 112, s. 3, referring to 23 & 24 Vict. c. 38, s. 2.

(*b*) The memorandum must be on parchment; a form may be obtained at the Central Office Room, No. 6, Inland Revenue. No memorandum will be received for registration after the hour of two in the afternoon: R. S. C. Ord. LXI. 22. On

In the Chancery Division.	The judgment [*or*, order] on which the writ of execution was issued is dated the —— day of ——, 188—.
John Jones, Plaintiff,	
v.	Debt, £——.
	Costs, £——.
Edward James Brown, Defendant.	Thomas Styles, of (*Place of business*), Solicitor for the plaintiff John Jones.

1046.

Acknowledgment of satisfaction of a registered writ of execution (*e*).

[Dan. Pr. 931.]

Satisfaction is acknowledged between A. B. plaintiff, and C. D. defendant, as to a writ of *elegit* [*or as may be*], issued on the —— day of ——, 188—, upon a judgment [*or*, order] of the High Court of Justice, dated the —— day of ——, 188—, and made in an action wherein the said A. B. is plaintiff and the said C. D. is defendant: a memorandum of which writ was, on the —— day of ——, 188—, left with the Registrar of Judgments of the Supreme Court of Judicature to affect the estate of the said C. D.

And I, the said A. B., do hereby (*Continue as in* Form 918 *to the end*).

1047.

Petition of course for entry of satisfaction of a registered writ of execution.

[Dan. Pr. 931.]

Formal parts: see Form 39.

The humble petition of the plaintiff [*or*, of the defendant C. D.].

Showeth as follows:

1. By a judgment [*or*, order] made in this action, and dated the —— day of ——, 188—, it was adjudged [*or*, ordered] that your petitioner [*or*, the above-named plaintiff] should recover against the above-named defendant [*or*, your petitioner] the sum of £——, together with certain costs as in the said judgment [*or*, order] mentioned, and which costs were afterwards taxed and allowed at the sum of £——.

2. On the —— day of ——, 188—, a writ of *elegit* was duly issued upon the said judgment [*or*, order] against the said C. D. [*or*, your petitioner].

3. On the —— day of ——, 188—, a memorandum of the said writ of *elegit* was filed with the Registrar of Judgments of this Honourable

registering a writ of execution a fee of 5*s.* is payable: 23 & 24 Vict. c. 38, s. 2. The fee for searching the register is 1*s.* for each name: by a stamp impressed on a *præcipe* for search: Ord. as to S. C. Fees, 1884, Sched. No. 112; Ord. as to Fees, &c., July, 1884, p. 12. As to the fees payable on a request for a search and certificate pursuant to R. S. C. Ord. LXI. r. 23, see Ord. as to S. C. Fees, 1884, Sched. Nos. 114—118; Ord. as to Fees, &c., July, 1884, p. 12.

(*e*) Upon the filing of an acknowledgment in this form, the Registrar of Judgments may enter satisfaction as to the registered writ of execution: 23 & 24 Vict. c. 115, s. 2. The acknowledgment must be on parchment. As to the fee payable on entering satisfaction, see note (*p*) to Form 918.

Court for entry, pursuant to the statutes in this behalf, so as to affect the estate of the said defendant [*or*, of your petitioner]: who was described in such memorandum as (*Insert name, address, and trade, &c., as in memorandum*).

4. The purposes for which the said writ of *elegit* was registered as aforesaid have been satisfied, and your petitioner is desirous that the aforesaid entry thereof should be discharged.

Your petitioner therefore humbly prays, that the proper officer may be at liberty to enter satisfaction in respect of the writ of *elegit* so registered as aforesaid, in the books kept by him for that purpose.

1048. Notice of motion or summons for entry of satisfaction of registered writ of execution (*d*).

Formal parts: see Form 38 *or* 43.

on the part of the defendant C. D. [*or as may be*], that the Registrar of Judgments of this Court may be at liberty to enter satisfaction in respect of the writ of *elegit* issued in this action on the —— day of ——, 188—, upon the judgment [*or*, order] made in this action, and dated the —— day of ——, 188—: a memorandum of which writ was, on the —— day of ——, 188—, filed with the said Registrar, to affect the estate of the said defendant, who was therein described as (*Insert name, address, &c., as in memorandum*). And that the plaintiff [*or as may be; naming the party by whom the writ was registered*], may be ordered to pay the costs of this application.

(B.) *Application for Sale of Judgment Debtor's Interest in Land delivered under a Writ of Elegit.*

1049. Petition under 27 & 28 Vict. c. 112, for sale of lands extended under an elegit (*e*). [Dan. Pr. 933.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

In the matter of an Act passed in the Session held in the 27th & 28th years of the reign of her present Majesty entitled "An Act to amend the law relating to future judgments, statutes, and recognizances."

And in the matter of C. D., of (*address and description*).

(*d*) Before this application is made the execution creditor should be requested to cause satisfaction to be entered, or to consent to a petition for the entry of satisfaction. The application should be supported by evidence that the judgment in respect whereof execution has been issued and registered is satisfied.

(*e*) See Dan. Pr. 929—934; 2 Seton, 1141—1145; 27 & 28 Vict. c. 112, ss. 4, 5, 6. For forms of order see 2 Seton, 1137—1141, Nos. 1—7. A creditor cannot apply by petition under the Act unless the land has been actually delivered in execution: *Re Cowbridge Railway Co.*, L. R. 5 Eq. 413. The appointment of a receiver is such delivery: *Anglo-Italian Bank* v. *Davies*, 9 Ch. D. 275: 27 W. R. 3. See further, as to proceedings, where the interest is equitable merely, *Hatton* v. *Haywood*, L. R. 9 Ch. App. 229; *Ex parte Evans*, 13 Ch. D. 252: 28 W. R. 858; *Smith* v. *Cowell*, 6 Q. B. D. 75: 29 W. R. 227; *Salt* v. *Cooper*, 16 Ch. D. 544: 29 W. R. 553. See, also, Chap. XXVIII. on Receivers.

To Her Majesty's High Court of Justice.

The humble petition of A. B., of (*address and description*).

Showeth as follows :

1. By a judgment [*or*, By an order] of this Honourable Court, made in an action there depending, wherein your petitioner was plaintiff, and the above named C. D. was defendant, and bearing date the —— day of ——, 188—, your petitioner recovered against the said C. D. the sum of £——, together with certain costs, as in the said judgment [*or*, order] mentioned, and which costs were afterwards taxed and allowed by C. S., esquire, one of the taxing masters of this Court, at the sum of £——, as appears by the certificate of the said taxing master, dated the —— day of ——, 188—.

2. On the —— day of ——, 188—, your petitioner caused a writ of elegit to be sued out of this Honourable Court, directed to the sheriff of ——, commanding him that without delay he should cause to be delivered to your petitioner, by a reasonable price and extent, all such lands and tenements, rectories, tithes, rents, and hereditaments, including lands and hereditaments of copyhold or customary tenure, in his bailiwick, as the said C. D., or any person in trust for him, was seised or possessed of on the —— day of —— (*f*), or at any time afterwards, or over which the said C. D. on the said —— day of —— (*f*), or at any time afterwards, had any disposing power, which he might, without the assent of any other person, exercise for his own benefit : to hold the said lands, tenements, rectories, tithes, rents, and hereditaments respectively, according to the nature and tenure thereof, to him and to his assigns, until the said two several sums of £—— (*g*) and £—— (*h*), together with interest after the rate of £4 per centum per annum on the said sums from the —— day of ——, 188— (*i*), should have been levied.

3. The said writ of elegit was duly delivered to the said sheriff of ——, and by virtue thereof the said sheriff duly caused an inquisition to be held at (*State where, as in the return*), on the —— day of ——, 188—, before the said sheriff, when a jury of the said county being duly sworn and charged to inquire of the several matters in the said writ mentioned, found on the —— day of ——, 188— (*j*), that the said C. D. was on the —— day of ——, 188— (*k*), seised in his demesne as of fee of a dwelling-house and premises situate and being No. —, in —— Street, in the parish of ——, in the said county of ——, which said dwelling-house and premises were of the value of £—— [*or as may be, as in return*].

4. On the —— day of ——, 188—, the said sheriff delivered to your

(*f*) Date of the judgment or order.
(*g*) Amount of debt or damages.
(*h*) Amount of taxed costs.
(*i*) Date from which interest directed by the judgment or order to run, or date of judgment or order.
(*j*) Date of inquisition.
(*k*) Date found, as in the inquisition.

petitioner possession of the said dwelling-house and premises : to hold to your petitioner and his assigns according to the nature and tenure thereof, until the moneys in the said writ mentioned, with interest as therein mentioned, should have been levied.

5. On the —— day of ——, 188—, the said sheriff duly returned the said writ, and the said writ and the return have been duly filed as of record in this Honourable Court.

6. The said writ of elegit was on the —— day of ——, 188—, duly registered with the Registrar of Judgments of the Supreme Court of Judicature in the manner prescribed by the statute 27 & 28 Vict. c. 112, s. 3, and such registry continues and is now in force.

7. The said two several sums of £—— (*m*) and £—— (*n*), together with interest at the rate of £4 per centum per annum thereon from the —— day of ——, 188— (*o*), still remain due and owing to your petitioner upon and by virtue of the said judgment [*or*, order].

Your petitioner therefore humbly prays, that the interest of the said C. D., in the said dwelling-house and premises [*or as may be*] which have been delivered in execution to your petitioner as aforesaid, may be sold; and that the money arising from such sale may be applied in payment to your petitioner of what is due to him under the said judgment [*or*, order] of the —— day of ——, 188— (*o*); Or, if there are any other charges on the said dwelling-house and premises, that the proceeds of the said sale may be applied in payment of what is due to the parties entitled thereto, according to their respective priorities.

And that for effectuating the purposes aforesaid, all proper and necessary accounts may be taken, directions given, and inquiries made.

Or, that such further or other order may be made in the premises as shall seem meet.

And your petitioner will ever pray, &c.

Note.—It is intended to serve this petition on the said C. D.

(7.) *Charging Stock or Shares* (*a*)

(*Dan. Pr.*, pp. 934—941, ccclxxxix.)

(*m*) Amount of debt or damages.

(*n*) Amount of taxed costs.

(*o*) Date from which interest directed by the judgment or order to run, or otherwise date of the judgment or order.

(*a*) *Charging stock or shares.*—An order charging stock or shares may be made by any Divisional Court or by any Judge, and the proceedings for obtaining such order are such as are directed, and the effect such as provided, by the Acts 1 & 2 Vict. c. 110, ss. 14 & 15, and 3 & 4 Vict. c. 82, s. 1 : R. S. C. Ord. XLVI. 1. As to the effect of charging orders generally, and the cases in which such orders can be obtained, see 1 & 2 Vict. c. 110, ss. 14, 15 ; 3 & 4 Vict. c. 82, s. 1 ; Dan. Pr. 934—941 ; 1 Seton, 308—311 ; Wilson, 412—415 ; Ann. Pr. 453—456 ; Chitty's Forms, 478—483 ; Chitty's Arch. 623—627.

1050.

Summons for charging order *nisi* (*b*).
[Dan. Pr. 939.]

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant.

And

In the matter of an Act passed in the Session held in the 1st and 2nd years of the reign of Her present Majesty, chapter 110, and of an Act passed in the Session held in the 3rd and 4th years of the reign of Her present Majesty, chapter 82 (*c*).

Other formal parts : as in Form 43.

on the part of A. B., of (*address and description*), that the sum of £1,000 Reduced £3 per centum annuities standing in the books of the Governor and Company of the Bank of England [*or*, the eighteen shares in the Universal Life Assurance Society, a public company in England, standing in the books of the said Universal Life Assurance Society], in the name of C. D., of (*address and description*), in his own right [*or*, in the name of E. F., of (*address and description*), in trust for C. D., of (*address and description*)] :

Or, that the £1,000 Consolidated £3 per centum annuities, part of £10,000 like annuities in Court to the credit of this action : The

(*b*) According to present practice the application is almost invariably made by summons. For form of petition for charging order, see Dan. Forms, 3rd ed., No. 1335. The application is, in the first instance, *ex parte :* 1 & 2 Vict. c. 110, s. 15 ; 3 & 4 Vict. c. 82, s. 1. If the action is proceeding in the District Registry, the application is made to the District Registrar : R. S. C. Ord. XXXV. 5 (*e*) ; but a District Registrar cannot make a charging order absolute : *Ibid.*, 6 ; and Ord. LIV. 12 (*l*). Where the fund sought to be charged is in Court, the Paymaster's certificate of fund must be produced. A charging order may be made in the Chancery Division in aid of a judgment obtained in any division of the Court : R. S. C. Ord. XLVI. 1 ; *Hopewell* v. *Barnes*, 1 Ch. D. 630. A fee of 5*s.* is payable on the order *nisi*, and a like fee on the order absolute : by stamps impressed thereon : Ord. as to S. C. Fees, 1884, Sched. No. 66 ; Ord. as to Fees, &c., July. 1884, p. 9. For forms of order *nisi*, see R. S. C. App. K., No. 27 ; 1 Seton, 305—307, Nos. 1, 3, 4, 6, 7, 8, 9. For form of order absolute, see R. S. C. App. K., No. 28 ; 1 Seton, 305, No. 2. As to proceedings necessary to obtain an order for sale of shares charged under a charging order, see *Leggott* v. *Western*, 12 Q. B. D. 287 : 32 W. R. 460.

(*c*) *Title of the summons.*—If the funds sought to be charged do not stand to the credit of the action in which the judgment has been obtained, the summons must be entitled in the action to the credit of which the funds stand, and also in the action in which the judgment has been obtained, if both actions are assigned to the same Judge. If the application is made in the Chancery Division for the purpose of obtaining an order to charge stock or shares not in Court in aid of a judgment of another Division, the summons will be headed in the matter of the Act, and of the judgment debtor. But such applications are now rarely, if ever, made ; for the order can be obtained in any Division of the Court ; and in the case supposed an originating summons would be required, at a considerable additional expen e. In the case of an ordinary application in the Chancery Division for a charg ng order, it does not appear to be essential that the summons should be entitled in the matter of the Act.

account of, &c., which, by an order of this Court made in this action and dated the —— day of ——, 188—, was ordered to be transferred to C. D., of (*address and description*):

may stand charged with the payment to the applicant of the sum of £——, which by a judgment [*or*, order] of this Court, made in a certain action wherein the applicant was plaintiff and the said C. D. and others were defendants, and dated the —— day of ——, 188—, the applicant recovered against the said C. D., together with certain costs as in the said judgment [*or*, order] mentioned, and of the sum of £——, the amount of the said costs as taxed and allowed by C. S., esquire, one of the taxing masters of this Court, and of interest at the rate of £4 per centum per annum on the said sums, from the —— day of ——, 188— (*d*), until payment: unless the said C. D. shall, within —— days after service of the order to be made upon this application [*or*, shall on or before the —— day of ——, 188—], show good cause to the contrary.

If the stocks, &c., sought to be charged are not in Court, add: And that the Governor and Company of the Bank of England [*or*, the said Universal Life Assurance Society] may be restrained from permitting a transfer of the said £1,000 Reduced £3 per centum annuities [*or*, of the said shares] in the meantime and until the order to be made on this application shall be made absolute or be discharged.

If the stocks, &c., sought to be charged are in Court, add: And that no part of the said Consolidated £3 per cent. annuities may be sold, transferred, paid out, or otherwise dealt with, without notice to the applicant, in the meantime and until the order to be made on this application shall be made absolute or be discharged (*e*).

1051. Affidavit in support. [Dan. Pr. 939.]

Title as in Form 1050: *other formal parts as in* Form 6.

1. The above-named defendant C. D. [*or as may be*], is justly and truly indebted to me in the sum of £——, upon and by virtue of a judgment [*or*, order] in this action [*or*, in a certain action (*Insert short title and reference to record of action*), wherein I this deponent was plaintiff, and the said C. D. was defendant], dated the —— day of ——, 188—, and whereby I recovered against the said C. D. the sum of £—— (*amount of judgment debt including costs*), and which judgment [*or*, order] is still unsatisfied [*if so, add:* to the extent of £——].

2. There is now standing in the books of the Governor and Company of the Bank of England the sum of £1,000 Reduced £3 per centum annuities [*or*, in the books of the Universal Life Assurance Society

(*d*) Date from which interest is by the judgment or order directed to run; otherwise, the date of the judgment or order. If the interest on the debt and on the costs is recoverable from different dates, the summons must be altered accordingly.

(*e*) The applicant will be liable, at the discretion of the Court or a Judge, to pay any costs, charges, and expenses which, by reason of the order being obtained, may be occasioned to any party to the cause or matter, to the credit of which the funds charged stand, or to any persons interested therein: R. S. C. Ord. XLVI. 12.

eighteen shares in the said Society], in the name of the said C. D. [*or*, in the name of E. F., of (*address and description*), in trust for the said C. D.]. [*or*, there is now in Court to the credit of this action the sum of £1,000 Consolidated £3 per centum annuities, part of £10,000 like annuities to the same credit: The account of, &c., which by order dated the —— day of ——, 188—, was ordered to be transferred to the said C. D.]

3. I am informed and verily believe that the said C. D. is beneficially interested in the said (*Stock or shares sought to be charged*), for his own use and benefit.

4. (*Show means of knowledge.*)

1052. Affidavit of service of order *nisi* on judgment debtor.

(*Same as* Form 32.)

(8.) *Attachment of Debts* (*a*).

(*Dan. Pr.*, pp. 941—948, cccLxxxix—cccxc.)

(*a*) *Attachment of Debts.—Summary of Material Provisions of R. S. C.* 1883.

ORDER.

Order attaching debts.—May be made upon *ex parte* application of judgment creditor, either before or after any oral examination of judgment debtor, upon affidavit by judgment creditor or his solicitor, stating recovery of judgment, that it is still unsatisfied, and to what amount, and that any other person is indebted to judgment debtor, and is within the jurisdiction. The third person (garnishee) may be ordered to appear before the Court or a Judge or an officer of the Court, to show cause why he should not pay to the judgment creditor the amount due from garnishee to judgment debtor, or so much thereof as is required to satisfy the judgment . . . . . XLV. 1.

Service of garnishee order.—Service of order on garnishee, or notice to him thereof, will bind the debt in his hands . . . ,, 2.

Execution against garnishee.—May be ordered to issue, (1) if the garnishee does not pay into Court the amount due to the judgment debtor, or an amount equal to the judgment debt, and does not dispute the debt due or claimed to be due to such debtor; (2) if he does not appear on the summons . . . ,, 3

Trial of liability of garnishee.—If garnishee disputes his liability, the Court or Judge may order any issue or question necessary for determining his liability to be tried or determined ,, 4.

Lien of third person.—On suggestion by garnishee that the debt belongs to some third person, or that he has a lien or charge on it, such third person may be ordered to appear, and state the nature and particulars of his claim . . . . ,, 5

Proceedings on claim of third person.—On hearing such third person, or in default of his appearance, the Court or a Judge may order execution to issue, or any issue or question to be tried or determined, or may bar the claim of such third person ,, 6.

Discharge of garnishee, &c.—Payment made by, or execution levied on, the garnishee, will be a valid discharge as against the debtor, although the proceedings should be set aside, or the judgment reversed . . . . . ,, 7.

Debt attachment book.—Is to be kept by the proper officer, containing entries of the attachment and proceedings thereon,

ORDER.

with names, dates, and statements of the amount recovered, and otherwise: copies of such entries may be obtained on application — XLV. 8.

Costs of proceedings.—Are in the discretion of the Court or a Judge . . . . . ,, 9.

As to attachment of debts, see Dan. Pr. 941—948; 1 Seton, 311—314; Wilson, 407—412; Ann. Pr. 453—459; Chitty's Arch. 628—637; Chitty's Forms, 461—467.

(A.) *Discovery in Aid of Execution* (*b*).

1053.

Notice of motion or summons for order for examination of judgment debtor as to debts due or accruing due to him (*c*). [Dan. Pr. 941.

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that the above-named defendant C. D. may be ordered to attend before (*State whom, as thus:* R. M., esquire, the chief clerk to his lordship, Mr. Justice ——, [*or*, the Registrar of the District Registry at ——; *or as may be*]), at the chambers of the said Judge situate at the Royal Courts of Justice, Strand, London [*or*, at the District Registry at ——; *or as may be*], at such time or times as may be appointed by notice in writing, for the purpose of being examined *vivâ voce* and on oath as to the debts due and owing and accruing due to him. And that upon such examination the said C. D. may be ordered to produce all books accounts, and other documents in his possession, custody, or power in any way relating or containing any entry relating to such debts.

1054.

Notice to judgment debtor to attend and be examined. [Dan. Pr. 941.

Formal parts: see Form 37.

Take notice that you are hereby required, in obedience to the order made in this action, and dated the —— day of ——, 188—, to attend before R. M., esquire, the chief clerk to his lordship, Mr. Justice ——, [*or*, before the Registrar of the District Registry at ——; *or as may be*], at the chambers of the said Judge situate at the Royal Courts of Justice, Strand, London [*or*, at the District Registry at ——; *or as may be*], on ——day, the —— day of ——, 188—, at —— of the clock in the ——noon, for the purpose of being examined *vivâ voce* and on oath as to the debts due and owing and accruing due to you. And further take notice that, in further obedience to the said order, you are hereby required to bring with you and to produce to the said chief clerk [*or as may be*] upon such examination, all books, accounts, and other documents in your possession, custody, or power in any way relating or containing any entry relating to such debts.

(*b*) See R. S. C. Ord. XLII. 32—34; and note (*b*), at p. 361.

(*c*) See R. S. C. Ord. XLII. 32; and note (*b*), at p. 361. If the action is proceeding in a District Registry, the examination is taken there, unless the Court or a Judge otherwise directs: R. S. C. Ord. XXXV. 5 (*c*). For form of order, see R. S. C. App. K., No. 38.

(B.) *Garnishee Orders.*

1055.

Motion paper or summons for garnishee order *nisi* (*d*). [Dan. Pr. 942.]

Formal parts : see Form 36 *or* 43.

To move on behalf of [*or*, on the hearing of an application on the part of] the above-named plaintiff A. B. [*or as may be: the judgment creditor being the applicant*], that all debts owing or accruing from E. F., of (*address and description*), to the above-named defendant C. D. [*or as may be*], may be attached to answer the sum of £—— (*e*), which by a judgment [*or*, order] of this Court made in this action and dated the —— day of ——, 188—, the said A. B. recovered against the said C. D., and also the sum of £—— (*f*), at which the costs mentioned in the said judgment [*or*, order] have been taxed and allowed, and also interest at the rate of £4 per cent. per annum on the said sums from the —— day of ——, 188— (*g*). And that the said E. F., and also the said C. D. (*h*), may be ordered to attend before R. M., esquire, the chief clerk to his lordship, Mr. Justice ——, at the chambers of the said Judge, situate in the Royal Courts of Justice, Strand, London, on —— day, the —— day of ——, 188— [*or*, before the Registrar of the District Registry at ——], at —— of the clock in the ——noon, to show cause why the said E. F. should not pay to the said A. B. the debt due from him to the said C. D., or so much thereof as may be sufficient to satisfy the said two several sums of £—— and £——, and interest as aforesaid.

1056.

Affidavit in support (*i*). [Dan. Pr. 943.]

Formal parts : see Form 6.

1. By a judgment [*or*, By an order] of this Honourable Court made in this action and bearing date the —— day of ——, 188—, it was adjudged [*or*, ordered] that I [*or*, that the above-named plaintiff A. B.]

(*d*) See R. S. C. Ord. XLV. 1 ; and note (*a*), *supra*. The application may be made in a District Registry : see R. S. C. Ord. XXXV. 5 (*d*). For form of order *nisi*, see R. S. C. App. K. No. 39 ; 1 Seton, 311, No. 1. As to what debts may be attached, see Dan. Pr. 943—945 ; 1 Seton, 313, 314 ; Wilson, 408, 409 ; Ann. Pr. 448, 449 ; Chitty's Arch. 629—632 ; *Gordon* v. *Jennings*, 9 Q. B. D. 45 ; *Chapman* v. *Biggs*, 11 Q. B. D. 27 ; *Webb* v. *Stenton*, 11 Q. B. D. 518 ; *Booth* v. *Trail*, 12 Q. B. D. 8 : 32 W. R. 122 ; *Nott* v. *Sands*, W. N. (1883), 74 ; *Mack* v. *Ward*, W. N. (1884), 16 ; *Macdonald* v. *Tacquah Gold Mine Co.*, 13 Q. B. D. 535 ; 32 W. R. 760 ; *Vyse* v. *Brown*, 13 Q. B. D. 199 ; 33 W. R. 168. For form of order absolute, see R. S. C. App. K. No. 40 ; 1 Seton, 311, No. 2. For form of order calling on third party to state particulars of his claim, see Chitty's Forms, 468. For order for issue to be tried, see *Ibid.*, 467, and for forms of issue, *Ibid.*, 469. Where there is a suggestion that the debt sought to be attached is trust money, the garnishee order should not be made absolute, but the money should be ordered into Court to abide the event of an issue : *Roberts* v. *Death*, 8 Q. B. D. 319 : 30 W. R. 76.

(*e*) Amount of debt or damages.

(*f*) Amount of taxed costs.

(*g*) Date from which interest is by the judgment or order directed to run ; and otherwise, date of the judgment or order.

(*h*) Jessel, M.R., refused to make the order for payment without notice to the judgment debtor.

(*i*) See R. S. C. Ord. XLV. 1 ; App. B. No. 25 ; and note (*a*), *supra*. The affidavit may be made by the judgment creditor or his solicitor.

should recover against the above-named defendant C. D., the sum of £——, and costs to be taxed. The said costs have been since taxed and allowed by C. S., esquire, one of the taxing masters of this Court, at the sum of £——.

2. The said judgment [*or*, order] still remains unsatisfied to the extent of the said two several sums of £—— (*j*) and £—— (*k*), and of interest after the rate of £4 per cent. per annum on the said sums from the —— day of ——, 188— (*l*). (*If any part of the judgment has been satisfied, this paragraph should be varied accordingly.*)

3. E. F., of (*address and description*), is indebted to the said C. D. in the sum of £—— or thereabouts (*m*).

4. The said E. F. is within the jurisdiction of this Court.

1057. Summons for substituted service of the garnishee order *nisi* (*n*). [Dan. Pr. 943.]

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be*], that he may be at liberty to serve the garnishee order nisi made in this action and dated the —— day of ——, 188—, on E. F. therein named by (*Here describe the mode of service proposed: see* Form 989).

1058. Affidavit in support.

(*Same as* Form 990.)

(9.) *Writ of Possession* (*a*).

(*Dan. Pr.*, pp. 948—951, cccxc.)

(*j*) Amount of debt or damages.

(*k*) Amount of taxed costs.

(*l*) Date from which interest is by the judgment or order directed to run; and otherwise date of the judgment or order.

(*m*) See *Lucy* v. *Wood*, W. N. (1884), 58, where the order was allowed, although the words "in the sum of £—— or thereabouts" were omitted.

(*n*) See R. S. C. Ord. XLV. 2; LXVII. 6. Jessel, M.R., directed that the judgment debtor should be served as well as the garnishee.

(*a*) *Writ of Possession:—In what Cases.*—A writ of possession may issue upon a judgment for the recovery of, or for the delivery of possession of, land: R. S. C. Ord. XLII. 5.

A judgment or order that a party *do recover possession* of any land may be enforced by writ of possession in manner formerly used in actions of ejectment in the Superior Courts of Common Law: R. S. C. Ord. XLVII. 1. An order for foreclosure absolute is not within this rule: *Wood* v. *Wheater*, 22 Ch. D. 281.

Where by any judgment or order any person is directed to *deliver up possession* of any lands to some other person, a writ of possession may issue without order, upon proof of due service of the judgment, and that the same has not been obeyed: R. S. C. Ord. XLVII. 2.

Separate writs for possession and for costs.—Upon a judgment for recovery of land and costs, there may be either one writ or separate writs of execution for the recovery of possession and for costs: R. S. C. Ord. XLVII. 3.

1059.

Præcipe for writ of possession (*b*). [Dan. Pr. 949.]

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . Plaintiff,
and
C. D. . . . . Defendant.

Seal a writ of possession directed to the sheriff of ——, to deliver possession to A. B. of (*Here describe the premises as in the judgment or order*).

Judgment dated the —— day of ——, 188—.

Taxing officer's certificate dated the —— day of ——, 188—.

Dated the —— day of ——, 188—.

(*Name and address of solicitor or party issuing the writ.*)

1060.

Writ of possession (*c*). [Dan. Pr. 949.

(*Heading as in* Form 1059.)

Victoria (*&c.: as in* Form 935).

To the sheriff of ——, greeting:

Whereas lately in our High Court of Justice, by a judgment [*or*, order] of the Chancery Division of the same Court, A. B. recovered [*or*, C. D. was ordered to deliver to A. B.] possession of (*Here describe the premises, as in the judgment or order*), with the appurtenances, in your bailiwick: Therefore, we command you that you omit not by reason of any liberty of your county, but that you enter the same, and without delay you cause the said A. B. to have possession of the said land and premises with the appurtenances. And in what manner you shall have executed this our writ make appear to us in our said Court immediately after the execution hereof. And have there then this writ.

Witness (*&c.: Conclude as in* Form 935).

1061.

Indorsements of name and address of party issuing writ, and of address of defendant.

(*Same as* Forms 936, 937, *and* 939.)

(*b*) As to the writ of possession, see Dan. Pr. 948—951; 2 Seton, 1562, 1563; Chitty's Arch. 849—852. For forms of returns, see Chitty's Forms, 598, 599.

(*c*) See R. S. C. Ord. XLII. 14; App. H. No. 8. The writ is issued out of the Writ, Appearance, and Judgment Department of the Central Office, or from the District Registry, on production of the judgment or order for recovery of, or for the delivery of possession of the land, and, in the latter case, of an affidavit proving service of the judgment or order, and that it has not been obeyed. See R. S. C. Ord. XLII. 11; XLVII. 1, 2; and note (*a*), *supra*. A fee of 5*s*. is payable on issuing the writ: by a stamp impressed on the *præcipe*: see Ord. as to S. C. Fees, 1884, Sched. No. 6; Ord. as to Fees, &c., July, 1884, p. 4.

1062.
Affidavit in support (*d*). [Dan. Pr. 949.

Formal parts: see Form 6.

1. (*Prove service of the order directing possession to be delivered: see* Form 32).

2. *Prove that the judgment or order has not been obeyed; as thus:* The defendant C. D., at the time of the service aforesaid of the said order, refused to pay obedience thereto, by delivering possession of the premises in the said order mentioned to the plaintiff, as thereby directed; and the said defendant C. D. still detains and keeps possession of the said premises.

1063.
Præcipe for writ of possession and *fieri facias* combined.

(*Heading as in* Form 1059.)

Seal a writ of possession and *fi. fa.* combined directed to the sheriff of —— to deliver possession to the plaintiff [*or as may be*] of the land and premises in the judgment [*or*, order] herein mentioned [*If for part only of the premises say:* "described as Blackacre"—*or as may be*]; and also to levy against C. D., of ——, in the county of ——, the sums of £—— (*e*) and £—— (*f*) and interest at the rate of £4 per centum per annum on the said amounts, from the —— day of ——, 188— (*g*) [*If part paid, add:* "Indorsed to levy £—— and interest from," &c., *as indorsed on writ*].

Judgment [*or*, order] dated the —— day of ——, 188—.

Taxing officer's certificate dated the —— day of ——, 188—.

Dated the —— day of ——, 188—.

(*Name and address of solicitor or party issuing writ.*)

1064.
Writ of possession and *fieri facias* combined.

(*Heading as in* Form 1059.)

Victoria (*&c.: as in* Form 935).

To the sheriff of ——, greeting:

Whereas lately in our High Court of Justice, by a judgment [*or*, order] of the Chancery Division of the same Court, it was adjudged [*or*, ordered] that the plaintiff A. B. recover [*or*, that the defendant C. D. deliver to A. B.] possession of all that (*Describe premises as in judgment or order*), with the appurtenances in your bailiwick: Therefore we command you that you omit not by reason of any liberty of your county, but that you enter the same and without delay you cause the said A. B. to have possession of the said lands and premises, with the appurtenances; And we further command you that of the goods and chattels of C. D. in your bailiwick, you cause to be made the sum of £——, and also interest

(*d*) This affidavit is only necessary in cases within R. S. C. Ord. XLVII. 2: see note (*a*), *supra*.

(*e*) Amount of debt or damages.

(*f*) Amount of taxed costs.

(*g*) Date from which interest is by the judgment or order directed to run; and otherwise date of judgment or order.

thereon at the rate of £4 per centum per annum, from the —— day of ——, 188—(*h*), which said sum of money and interest were in the said action by the said judgment [*or*, order therein dated the —— day of ——, 188—] adjudged [*or*, ordered] to be paid by the said C. D. to the said A. B. together with certain costs in the said judgment [*or*, order] mentioned, and which costs have been taxed and allowed by one of the taxing officers of our said Court at the sum of £——, as appears by the certificate of the said taxing officer dated the —— day of ——, 188— ; and that of the goods and chattels of the said C. D. in your bailiwick you further cause to be made the said sum of £——(*i*), together with interest thereon at the rate of £4 per centum per annum from the —— day of ——, 188—(*j*) ; and that you have that money and interest before us in our said Court immediately after the execution hereof to be paid to the said A. B. in pursuance of the said judgment [*or*, order]. And in what manner you shall have executed this our writ make appear to us in our said Court immediately after the execution hereof. And have there then this writ.

Witness (*&c. : Conclude as in* Form 935).

1065. Indorsement of name and address of party issuing writ, and of address of defendant.

(*Same as* Forms 936, 937, *and* 939.)

1066. Direction to sheriff.

Cause possession to be delivered to the plaintiff [*or as may be*] of the within-mentioned premises.

(*If for part only of premises, say :* "described as" ——).

And levy £—— and interest at £4 per centum per annum from the —— day of ——, 188—, and £—— for costs of execution, besides poundage fees and expenses of execution.

(10.) *Writ of Delivery* (*a*).

(*Dan. Pr.*, pp. 952—954, cccxc.)

(*h*) Date from which interest is by the judgment or order directed to run ; and otherwise date of judgment or order.

(*i*) Amount of taxed costs.

(*j*) Date of judgment or order.

(*a*) *Writ of delivery : in what cases.—For recovery of property other than land or money.*—A writ of delivery may be issued upon a judgment for the recovery of any property, other than land or money : R. S. C. Ord. XLII. 6 (*a*).

Where it is sought to enforce such judgment by writ of delivery, the Court or a Judge may, upon application of the plaintiff, order execution to issue for delivery of the property, without giving defendant the option of retaining it upon paying the value assessed, if any, and that if the property cannot be found, and unless the Court or a Judge otherwise orders, the sheriff shall distrain the defendant by all

1067.

Præcipe for writ of delivery (*b*). [Dan. Pr. 954.]

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant.

Seal a writ of delivery directed to the sheriff of ——, to make delivery to A. B. of the chattels specified in the judgment [*or*, order], dated the —— day of ——, 188—.

Dated the —— day of ——, 188—.

(*Name and address of solicitor or party issuing the writ.*)

1068.

Writ of delivery, directing a distress until the chattel returned (*c*). [Dan. Pr. 954.]

(*Heading as in* Form 1067.)

Victoria (*&c.: as in* Form 935.)

To the sheriff of ——, greeting:

We command you, that without delay you cause the following chattels, that is to say (*Here enumerate the chattels recovered by the judgment, for the return of which execution has been ordered to issue*), to be returned to A. B., which the said A. B. lately, in our High Court of Justice, recovered against C. D. [*or*, C. D. was ordered to deliver to the said A. B.] in an action in the Chancery Division of our said Court. And we further command you, that if the said chattels cannot be found in your bailiwick, you distrain the said C. D. by all his lands and chattels in your bailiwick, so that neither the said C. D. nor any one for him do lay hands on the same until the said C. D. render to the said A. B. the said chattels. And in what manner you shall have executed this our writ make appear to us in our said Court, immediately after the execution hereof. And have you there then this writ.

Witness (*&c.: Conclude as in* Form 935).

1069.

Indorsements of name and address of party issuing the writ, and of address of defendant.

(*Same as* Forms 936, 937, *and* 939.)

his lands and chattels in the sheriff's bailiwick, till the defendant deliver the property; or, at the option of the plaintiff, that the sheriff cause to be made of the defendant's goods the assessed value, if any, of the property: R. S. C. Ord. XLVIII. 1.

Separate writs for damages, costs, and interest.—When a writ of delivery is issued, the plaintiff may, either by the same or a separate writ of execution, have made of the defendant's goods the damages and costs awarded, and interest: R. S. C. Ord. XLVIII. 2. As to the writ of delivery, see Dan. Pr. 952—954; 2 Seton, 1563; Chitty's Arch., 618—620; Chitty's Forms, 446, 447.

(*b*) See R. S. C. Ord. XLII. 12; App. G., No. 8.

(*c*) See R. S. C. Ord. XLII. 14; App. H., No. 10. The writ is issued from the Writ, Appearance, and Judgment Department of the Central Office, or from the

1070.

Writ of delivery, or to levy the assessed value of the chattel (*d*). [Dan. Pr. 954.]

Proceed as in Form 1068, *down to the words* "cannot be found in your bailiwick"; *and continue thus:* of the goods and chattels of the said C. D. in your bailiwick you cause to be made £—— (*the assessed value of the chattels*). And in what manner you shall have executed this our writ make appear to us in our said Court immediately after the execution hereof. And have you there then this writ.

Witness (*&c.: Conclude as in* Form 935).

1071.

Indorsements of name and address of party issuing the writ, and of address of defendant.

(*Same as* Forms 936, 937, *and* 939.)

1072.

Direction to sheriff.

If the chattels cannot be found in your bailiwick, levy £——, the assessed value thereof and interest thereon at £4 per centum per annum, from the —— day of ——, 188—, until payment, besides sheriff's poundage, officer's fees, costs of levying, and all other legal incidental expenses.

(11.) *Renewal of Writs of Execution* (*dd*).

1073.

Summons for leave to renew writ of execution (*e*). [Dan. Pr. 830.]

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be*], that he may be at liberty to renew the writ of *fieri facias* [*or as may be*], issued in this action, directed to the sheriff of ——, and bearing date the —— day of ——, 188—.

District Registry, on production of the judgment or order, and evidence of service of the judgment, and that it has not been obeyed: R. S. C. Ord. XLII. 11. A fee of 5*s.* is payable on issuing the writ: by a stamp impressed on the *præcipe:* see Ord. as to S. C. Fees, 1884, Sched. No. 6; Ord. as to Fees, &c., July, 1884, p. 4. It seems that a writ for return of the chattel detained, without giving the defendant the option of retaining the chattel upon paying the assessed value (R. S. C. Ord. XLVIII. 1; and note (*a*), *supra*), cannot issue without an order. An order can only be made after the value of the goods has been assessed: *Corbett* v. *Lewin*, W. N. (1884), 62.

(*d*) See R. S. C. Ord. XLII. 14; App. H., No. 11.

(*dd*) See R. S. C. Ord. XLII. 20, 21; and note (*b*), at p. 361.

(*e*) See R. S. C. Ord. XLII. 20; and note (*b*), at p. 361. The application is *ex parte*. The order need not be drawn up, but a memorandum signed by the Registrar, Chief Clerk, or District Registrar, as the case may be, will be a sufficient authority to the proper officer to seal the renewed writ: R. S. C. Ord. LII. 14. A fee of 3*s.* is payable on the memorandum: by a stamp impressed or adhesive: Ord. as to S. C. Fees, 1884, Sched. No. 67; Ord. as to Fees, &c., July, 1884, p. 9.

1074.
Præcipe for renewed writ [Dan. Pr. 830.]

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant.

Seal in pursuance of order, dated the —— day of ——, 188—, a renewed writ of (*Continue as in præcipe for original writ; see* Forms 934, 956, 959, 962, 967, 971, 995, 1027, 1059, 1063, 1067).

1075.
Notice of renewal to the sheriff (*f*). [Dan. Pr. 830.]

Formal parts: see Form 37.

Take notice that the writ of *fieri facias* [*or as may be*], issued in this action, directed to the sheriff of ——, and bearing date the —— day of ——, 188—, has been renewed for one year from the —— day of ——, 188—.

Dated —— day of ——, 188—.

(*Name and address of solicitor or party renewing.*)

To the sheriff of ——.

(12.) *Amendment of Writs of Execution.*

1076.
Summons to amend writ of execution (*g*). [Dan. Pr. 830.]

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be*], that he may be at liberty to amend the writ [*or*, the indorsement on the writ] of *fieri facias* [*or as may be*] issued in this action on the —— day of ——, 188—, directed to the sheriff of ——, by (*Here specify the amendments which it is desired to make*).

(*f*) It seems that where the writ has not been delivered to the sheriff it will be renewed by the writ itself being sealed; but where the writ has been delivered to the sheriff, a notice will be sealed and delivered to the sheriff: see R. S. C. Ord. XLII. 20, 21. For form in the text, see R. S. C. App. B., No. 21.

(*g*) The order need not, in general, be drawn up; a memorandum signed by the Chief Clerk or District Registrar will be a sufficient authority to the proper officer to amend the writ: see R. S. C. Ord. LII. 14. A fee of 3*s.* is payable on the memorandum: by a stamp impressed or adhesive: Ord. as to S. C. Fees, 1884, Sched. No. 67; Ord. as to Fees, &c., July, 1884, p. 9. As to amending writs o execution, see Chitty's Arch. 548, 549.

CHAPTER XVII.

PROCEEDINGS IN THE JUDGES' CHAMBERS.

(*Dan. Pr.*, pp. 955—1153, cccxc.—cccxciv.)

Section I.—General Course of Proceedings at Chambers.

(*Dan. Pr.*, pp. 955—988, cccxc.)

(1.) *The Summons* (*a*).

(*a*) *The Summons.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Applications at Chambers: how made.—By summons, whether the application be *ex parte* or otherwise	LIV. 1, 2.
Alteration of summons.—None to be made after sealing, without leave obtained at Chambers	,, 3.
Length of service.—Originating summons, *seven* clear days, *ordinary* summons *two* clear days, before the return. (As to the *mode* of service, see Ord. LXVII. 2, 4, 5, 7; as to the *time* for service, Ord. LXIV. 11)	,, 4.
Proceedings on non-attendance.—Where any of the parties fail to attend upon the return, the Judge may proceed *ex parte:* no affidavit of non-attendance being required: though evidence of service may be called for; no such proceeding will be reconsidered, unless the Judge is satisfied that the party in default was not guilty of wilful delay; the costs occasioned by non-attendance are in the discretion of the Judge, who may direct them to be paid before reconsideration of the matter . .	,, 5, 6.
Costs thrown away by non-attendance.—If the Judge does not think proper to proceed *ex parte*, he may order costs to be paid to the party attending by the absent party, or by his solicitor personally	,, 7.
Adjournment for further consideration.—Where the matter is not fully disposed of on the return of the summons, the parties must attend, without further summons, such further appointments as may be given	,, 8.
What may be included in the same summons.—All matters upon which the applicant desires the order or directions of the Court or a Judge; upon the hearing, any proper order or directions may be made or given, and any application may be adjourned from Chambers into Court	,, 9.
Originating summons.—(*See note* (*g*) *at p.* 432; Form 1078, *and notes thereto*)	LV. 20—23.
Summons Book.—When the summons is obtained an entry thereof must be made by the officer in the "Summons Book:" stating the date, name of the cause or matter, and of the party issuing, the purpose, and time of return	,, 38.
Lists for the day.—Daily lists must be made out, and affixed outside the Chambers of the respective Judges; the matters therein will in general be heard in their order on the lists .	,, 39.

As to summonses generally, see Dan. Pr. 966—972; 1 Seton, 63—65. As

to the different classes of summonses, see Dan. Pr. 967. As to the proceedings in Chambers generally, see 1 Seton, 60—62; R. S. C. Ord. LV. As to the business to be disposed of in Chambers, see Dan. Pr. 955—958; R. S. C. Ord. LV. 2. As to the powers and duties of the Chief Clerks of the Judges, see Dan. Pr. 958—961; R. S. C. Ord. LV. 15—18. As to adjournment to and from Chambers, see Dan. Pr. 973—975; 1 Seton, 62, 63; R. S. C. Ord. LIV. 9; LV. 29. As to appeals from orders in Chambers, see Dan. Pr. 984, 985, 1282, 1 Seton, 65, 66. As to costs of proceedings in Chambers, see Dan. Pr. 971—974; 1 Seton, 66; R. S. C. Order LXV. 27 (16), (20), (22—24).

1077.

Formal parts of an ordinary summons (*b*). [Dan. Pr. 966.]

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
In the matter of the estate of A. B.
Between C. D. . . . . Plaintiff,
and
E. F. . . . . Defendant.

Let all parties concerned attend at my Chambers in the Royal Courts of Justice, Strand, London, on (*c*) ——day, the —— day of ——, 188—, at —— o'clock in the ——noon (*If a short return is granted,*

(*b*) *Issuing the summons.*—The form of summons in the text is that most commonly used in the Chancery Division, and was prescribed by Cons. Ord. XXXV. 2; and Sch. K., No. 1; annulled by R. S. C. 1883, Prel. Rule, and App. O. For another form, see R. S. C. App. K., No. 1; and Form 44; but that form is not so convenient as the one given above: which is followed in most of the official forms of summonses for the Chancery Division now obtainable in the Central Office. Two copies of the summons must be filled up: one of which will be sealed with the seal of the Chambers; the other is left there. And see notes to Form 43. A fee of 3*s.* is payable on issuing an ordinary summons: by a stamp impressed or adhesive: Ord. as to S. C. Fees, 1884, Sched. No. 11; Ord. as to Fees, &c., July, 1884, p. 4.

Hearing the summons.—The Chief Clerk of the Judge to whom the action or matter is assigned will in general hear the summons: unless the application is one which, according to the course of practice, is dealt with by the Junior Clerk. The rooms in the Royal Courts of Justice at present occupied by the Chief Clerks are as follows:—

Name of Judge.	1st Div.: A. to F.	2nd. Div.: G. to N.	3rd. Div.: O. to Z.
V.-C. Bacon.	No. 695	No. 692	No. 689
Mr. Justice Kay	„ 267	„ 288	„ 292
Mr. Justice Chitty	„ 252	„ 315	„ 303
Mr. Justice Pearson	„ 704	„ 700	„ 706

For a similar Table showing the numbers of the rooms in which summonses are issued, see note (*w*) to Form 43.

Orders made on summons.—These are generally drawn up by the Registrars (R. S. C. Ord. LV. 74); except orders enlarging time and some other orders relating to merely interlocutory proceedings; and except orders under the Companies Acts, which are drawn up in Chambers if not to be acted upon in the Pay-office: 1 Seton, 61. For forms of orders made in Chambers: *Ibid.*, 60, Nos. 3—5.

(*c*) As to the return of an ordinary summons, see R. S. C. Ord. LIV. 4; and note (*a*), *supra*. As to special leave, see Dan. Pr. 968, note (*r*); Ord. LIV. 4; Ord. LXIV.

add: by special leave (*d*)), on the hearing of an application on the part of (*State on whose behalf the application is made, as thus:* the plaintiff—*or*, the defendant—*or*, the defendant E. F.—*or*, G. H., a party attending the proceedings in this action—*or*, M. N., of, *&c.* (*Place of residence and occupation* [*or as may be*] (*e*)), that (*State the precise object of the application*).

Dated this —— day of ——, 188—.

James Bacon, V.-C.
or,
Edward Ebenezer Kay, J.
or,
Joseph William Chitty, J.
or,
John Pearson, J.

This summons was taken out by A. & B., of Lincoln's Inn, in the county of Middlesex, solicitors for the applicant [*or as may be*] (*f*).

To

(*Where service of the summons is necessary, insert the names of the solicitors or persons to be served with it: see* Form 37.)

The Originating Summons (*g*).—*Summary of Material Provisions of R. S. C.* 1883.

	Order.
(*g*) *Form and issue of.*—The summons must be in the prescribed form (App. L. No. 25), with needful variations. It must be prepared by the applicant or his solicitor, and sealed in the Central Office, where it will be marked with the name of one of the Judges of the Chancery Division to whom Chambers are attached	LV. 20 and V. 9 (*b*).
Return.—After the summons has been sealed at the Central Office, the day and hour for attendance must be added either in the margin or at the foot, on application at the Chambers of the Judge to whom the action is assigned, and the summons will be stamped there	LV. 21.
Length of service.—Where service necessary, *seven clear days* before the return	LIV. 4.
Summons not served before the return.—In such case an indorsement must be made on the summons, and on a copy stamped for service, appointing a new time for the parties not served to attend, such indorsement being sealed at Chambers; service of such copy will have the same effect as service of an originating summons	LV. 22.
Appearance.—The parties served must, before they are heard in Chambers, appear in the Central Office, and give notice thereof	,, 23.

(*d*) As to enlargement or abridgement of the return, see Dan. Pr. 968, 969.

(*e*) As to describing applicants by summons, see Dan. Pr. 968; and note (*ll*) to Form 38.

(*f*) See Dan. Pr. 966; R. S. C. Ord. IV. 1—4.

1078. Formal parts of an originating summons (*h*). [Dan. Pr. 966.]

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*i*).)

In the matter of the estate of A. B. deceased.

Between C. D. . . . . Plaintiff,
and
E. F. . . . . Defendant (*j*).

Let E. F., the executor of the said A. B. deceased, attend at the Chambers of Mr. Justice ——, at the Royal Courts of Justice, at the time specified in the margin [*or*, at the foot], hereof (*k*), upon the application of C. D., of ——, Esq., who claims to be a creditor [*or as may be*] upon the estate of the above-named A. B., for an order for the administration of the personal [*or*, real and personal] estate of the said A. B.

Dated the —— day of ——, 188—.

Seal.

This summons was taken out by A. & B., of Lincoln's Inn, in the county of Middlesex (agents for ——, of ——, solicitors for the above-named C. D. (*l*) [*or*, by the above-named C. D. in person, whose address for service is ——].

Where service of the summons is necessary, address it to the parties required to be served, and add foot notes; as thus:

To the above-named E. F., of (*residence and occupation*).

[NOTE.

(*h*) *Issuing the summons.*—Originating summonses are to be issued in the same manner as writs of summons. The stamp denoting the fee is to be put on the copy filed, and the original is to be sealed and delivered to the party issuing; but no other duplicates or copies for service are to be sealed: Additional Rules of Practice Masters, March, 1884; and see R. S. C. Ord. LV. 20, 21; and note (*g*), *supra*. A fee of 10*s*. is payable on sealing an originating summons: by a stamp impressed on the copy filed: Ord. as to S. C. Fees, 1884, Sched. No. 8; Ord. as to Fees, &c., July, 1884, p. 4.

(*i*) See R. S. C. Ord. V. 9 (*b*); and note (*g*), *supra*. Assignment to a particular Judge is to be made before the issue of the summons: Additional Rules of Practice Masters, March, 1884.

(*j*) The form in the text is that given in R. S. C. Ord. LV. 20, App. L., No. 25, as a model form of originating summons. But there are many cases in which a different form of title will be required; *e.g.*, in the case of applications under the authority of an Act of Parliament: see Form 1079.

(*k*) See R. S. C. Ord. LV. 21; and note (*g*), *supra*; and see Dan. Pr. 967. The day and hour are usually specified in the margin as follows:—"On —— the —— day of ——, 188—, at —— o'clock in the ——noon." As to the return to an originating summons, see R. S. C. Ord. LIV. 4; and note (*g*), *supra*.

(*l*) See R. S. C. Ord. IV. 1, 2, 4; and see Forms 3 & 4.

Foot note (*m*). Dan. Pr. 966.]

NOTE.—If you do not attend, either in person or by your solicitor, at the time and place above mentioned,

Or if the return day of the summons is altered (*see* Form 1081), *say:* at the place above mentioned, at the time mentioned in the indorsement hereon,

such order will be made, and proceedings taken, as the Judge may think just and expedient.

Before you will be heard in Chambers you will have to enter an appearance in the Central Office, and give notice of such appearance (*mm*).

1079.

Notice issued by Practice Masters as to the title, &c., of originating summonses.

Solicitors issuing originating summonses are recommended to use the following forms as far as practicable for general use in Chambers. But the officers of this department cannot be responsible for any alterations which may be required by the Chief Clerk in any particular case :—

ADMINISTRATION SUMMONSES ARE TO BE ENTITLED

"In the matter of the estate of A. B., deceased.

C. D. . . . . Plaintiff,

v.

E. F. . . . . Defendant."

N.B.—This regulation is to apply to summonses under Order 55, rule 3, for determining particular questions with regard to an estate.

ORIGINATING SUMMONSES.—In all cases where an originating summons is taken out under the authority of an Act of Parliament, or the Rules of the Supreme Court, the summons must be entitled in a substantial matter (as the first title), and also in the matter of the particular Act ; as well as any general Act applicable (such as the Lands Clauses Consolidation Act, 1845, or the Copyhold Acts) :—

(1.) If it be a railway or other local Act, and under its powers a portion of the estate of any testator or intestate has been taken, the summons must be entitled in the matter of the estate of such testator or intestate ; and in the matter of the Act or Acts.

(2.) If property settled by any deed of settlement, then in the matter of such settlement ; and in the matter of the Act or Acts.

(3.) If land belonging to a rector, vicar, or corporate body, then it must be entitled Ex parte the Rector, Vicar, or Corporate Body, as the case may be ; and in the matter of the Act or Acts.

(4.) Summonses for payment of money out of Court should bear the same title as that of the proceeding under which the fund was paid in.

(5.) Summonses under the Settled Land Act, 1882, should be entitled as directed by the Rules under the said Act, and in

(*m*) This note is to be added to the original summons, and when the time is altered by indorsement, the indorsement is to be referred to as above : note to R. S. C. App. L., No. 25. If the application is made *ex parte*, the foot note, as well as the address, should be omitted : see Dan. Pr. 966, note (*d*).

(*mm*) This addition to the note has recently been made by the Practice Masters.

other respects should be in the form given in Appendix L., No. 25, of the Rules of the Supreme Court, 1883 (*n*).

The address and description of the applicant and of the next friend (if any) should in all cases be stated in the summons; and if the applicant or the parties summoned apply or are summoned as trustees, or in a representative capacity, the fact should appear in the summons, and the rule (if any) under which the application is made should be stated therein.

1080.

Enlargement of return of an ordinary summons. [Dan. Pr. 969.]

Adjourned till —— the —— day of ——, 188—, at —— o'clock in the ——noon, for service on (*State whom; as thus:* the defendant A. B.).

Dated this —— day of ——, 188—.

R. M., Chief Clerk.

1081.

Enlargement of return of an originating summons (*nn*). [Dan. Pr. 968.

(Wednesday), the —— day of ——, 188—, at —— of the clock in the ——noon, is appointed for such of the parties as have not been served with this summons to attend at the Chambers within mentioned.

Dated this —— day of ——, 188—.

(*Seal of the Judge's Chambers.*)

1082.

Direction to amend originating summons without a formal order (*o*). [Dan. Pr. 969.]

Let the summons be amended.

R. M., Chief Clerk.

1083.

Præcipe for amendment of originating summons.

(*Title and reference to the record.*)

Amend, in pursuance of order [*or*, fiat], dated the —— day of ——, 188—, the originating summons herein, by (*Set out amendments when required*).

Dated the —— day of ——, 188—.

(*Name and address of solicitor or party amending the summons.*)

(*n*) See Form 1078.

(*nn*) See R. S. C. Ord. LV. 22; and note (*g*), *supra*. The indorsement is made on the original summons, and on each copy stamped for service, and each indorsement must be sealed at the Judge's Chambers: *Ibid.*

(*o*) An originating summons can in general be amended without a formal order being made. If, in any case, an order should be found necessary, it can be obtained on *ex parte* summons; and on production of a minute of the order signed by the Chief Clerk (R. S. C. Ord. LII. 14), upon which, or upon a direction on the summons in the form given in the text, a fee of 3*s.* is payable, the filed copy summons will be amended at the Central Office: Dan. Pr. 969, note (*g*). A fee of 5*s.* is payable on amending an originating summons: by a stamp adhesive to the *præcipe*: Ord. as to S. C. Fees, 1884, Sched. No. 9; Ord. as to Fees, &c., July, 1884, p. 4.

1084.

Summons for substituted service of an originating summons (*p*). Dan. Pr. 971.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that service of the originating summons, dated the —— day of ——, 188—, issued in this action [*or*, matter] at the instance of the applicant, together with a copy of the order to be made hereon, upon (*Describe the proposed substitute; as thus:*

C. D., of (*residence and occupation*),

Or, C. D., and E. F., members of the firm of D. & F., of (*place of business*), or upon either of them),

may be deemed good service on the defendant A. B. [*or as may be*].

1085.

Summons for substituted service of an ordinary summons (*q*). [Dan. Pr. 971.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that service of the summons, dated the —— day of ——, 188—, issued in this action [*or*, matter] at the instance of (*Proceed as in* Form 1084, *to the end*).

1086.

Affidavit in support. Dan. Pr. 971.]

Formal parts: see Form 6.

1. (*Show the necessity for serving the summons on the person proposed to be served by substitute.*)

2. (*Show what efforts have been made to serve such person with the summons; that all practical means of effecting such service have been exhausted; and that the proposed substitute has been appointed by such person to act as his agent in the matter, or other special grounds. Show, also, how the substituted service is proposed to be effected.*)

3. (*Show means of knowledge.*)

1087.

Summons for leave to serve a summons abroad (*r*). [Dan. Pr. 970, note (*h*).]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that he may be at liberty to

(*p*) An originating summons must be served in the same manner as a writ of summons: R. S. C. Ord. LXVII. 5. As to service of a writ of summons, see p. 140. As to the time of the day for service, see R. S. C. LXIV. 11. As to substituted service, *Ibid.*, Ord. LXVII. 6. The application is *ex parte*.

(*q*) As to service of an ordinary summons, see Dan. Pr. 970, 971. Where the party to be served is a party to the proceedings and has appeared by a solicitor or in person, the summons is served on the solicitor, or at the address for service of such person, as the case may be: R. S. C. Ord. LXVII. 2, 7. Where no appearance has been entered, the service will be effected by filing the summons with the proper officer: *Ibid.*, 4; Ord. XIX. 10. A summons may be served without any special leave upon any defendant who has been duly served with a writ of summons, but has failed to appear within the time limited: *Ibid.*, Ord. LII. 8. As to the time of the day for service, *Ibid.*, Ord. LXIV. 11. As to substituted service, *Ibid.*, LXVII. 6. The application is *ex parte*.

(*r*) The application is made *ex parte*. The summons to be served should be made returnable on a day sufficiently distant to allow of the service abroad, and of the party served communicating with England: see Table of times, note (*l*), to Form 375.

serve the summons dated (*Continue as in* Form 1084. *to* hereon), upon the defendant A. B. [*or as may be*], at (*State where; as thus:* Vienna, or elsewhere in the empire of Austria).

1088.
Affidavit in support.

Formal parts: see Form 6.

1. (*Show the necessity for serving the summons on the person proposed to be served abroad.*)

2. (*Show in what place or country such person is, or may probably be found.*)

3. (*Show means of knowledge.*)

1089.
Affidavit of service of an originating summons (*s*). [Dan. Pr. 970, note (*g*).]

Formal parts: see Form 6.

1. On ——, the —— day of ——, 188—, before six o'clock in the evening [*or*, two o'clock in the afternoon—*or as may be*] (*t*), I served (*Describe the person or persons required to be served; as thus:* the above-named defendant C. D.; *or*, C. D. named in the summons hereinafter mentioned), with a summons in this matter, dated the —— day of ——, 188—, issued from and under the seal of the Central Office of this Honourable Court, and sealed with the seal used in the Chambers of the Vice-Chancellor Sir James Bacon [*or*, Mr. Justice ——], and addressed to the said (*Names of the persons required, as above, to be served—If so, add:* and others): by delivering to, and leaving with (*Describe the person or persons on whom, and where, service was effected; see* Form 34), a true copy of the said summons; and I at the same time showed the said summons to the person [*or*, to each of the persons] to whom such true copy was delivered as aforesaid: by which summons the said (*Names of persons required to attend, as in summons*) were required to attend at the Chambers aforesaid, at the Royal Courts of Justice, on ——, the —— day of ——, 188—, at —— of the clock in the —— noon (*u*),

In the case of a summons for administration, add: and show cause, if he [*or*, they] could, why an order for the administration of the real and personal estate of the above-named A. B., should not be granted [*or as may be: as in the summons*].

But in other cases, add: on the hearing of an application on the part of (*State whom: as in summons*) for the purposes therein specified.

(*s*) As to affidavits of service, see R. S. C. Ord. LXVII. 9. For this form, see Regul. 8 Aug. 1857, Sched. No. 1. The regulations are annulled by R. S. C. 1883, Part II., Prel. Rule, and App. O.; but this form is still commonly used in practice. For the form appended to R. S. C., see *Ibid.*, App. B., No. 23; and Form 34*a*.

(*t*) See R. S. C. Ord. LXIV. 11.

(*u*) The time specified in the memorandum in the margin or at foot of the summons: R. S. C. Ord. LV. 21; and note (*g*), *supra*.

2. There was at the foot of the copy [*or*, of each copy] of the said summons so served, and at the foot of the said summons when so produced as aforesaid, a memorandum or statement that such summons was taken out by ——, of ——, solicitor for —— (*Insert these particulars from the summons*); and a notice that if the said (*Insert name*) did not attend, either in person or by his solicitor, at the time and place mentioned in the said summons,

Or, if so: at the place mentioned in the said summons, at the time mentioned in the indorsement thereon (*v*),

such order would be made, and proceedings taken, as the Judge might think just and expedient.

Where the time for service has been enlarged by indorsement (*v*), *add:* 3. There was upon the copy [*or*, upon each copy] of the said summons so served, at the time of the said service thereof, an indorsement, dated the —— day of ——, 188—, under the seal of the Chambers of the said Judge, whereby ——, the —— day of ——, 188—, at —— of the clock in the —— noon, was appointed for such of the parties as had not been served with the said summons to attend at the said Chambers [*or as may be*].

1090.

Affidavit of service of an originating summons, on a substitute. [Dan. Pr. 971.]

Proceed as in Form 1089, *to* delivering to, *and continue thus:* and leaving with (*Name of substitute*), at (*State where*), in the (county) of ——, a true copy of the said summons; and I (*Continue as in* Form 1089, *to the end of that Form*).

4. The said (*substitute*) is the person of that name who is named in the order made in this action [*or*, matter], dated the —— day of ——, 188—, now produced and shown to me and marked A. B. 1 [*or, if not exhibited, say:* whereby it was ordered that (*Set out directions as to the substituted service*)]; and at the time of the aforesaid service on the said (*substitute*), I also served him with the said order of the —— day of ——, 188—, by delivering to, and leaving with him a true copy of such order; and I at the same time produced and showed to him such original order, duly passed and entered.

Or, an office copy of such order sealed with the seal of the Central Office.

1091.

Affidavit of service of an ordinary summons. [Dan. Pr. 970.]

(*Same as* Form 34 *or* 34*a*.)

1092.

The like on a substitute. [Dan. Pr. 971.]

(*Same as* Form 35.)

(*v*) See Form 1081.

1093.

Memorandum of appearance to originating summons (*w*). [Dan. Pr. 969.]

(*Title and reference to the record.*)

Enter an appearance for A. B., to originating summons at the suit of C. D. in this action [*or*, matter].

Dated this —— day of ——, 188—.

(*Name, &c., of solicitor or party entering the appearance.*)

1094.

Notice of appearance (*x*). [Dan. Pr. 969.]

Formal parts: see Form 37.

Take notice that I have this day entered an appearance for the defendant A. B. [*or as may be*], to the summons, dated ——, 188—, issued in this action [*or*, matter].

1095.

Notice of appointment for the further consideration of a summons (*y*). [Dan. Pr. 971, note (*r*).]

Formal parts: see Form 37.

Take notice that the chief clerk of his lordship Mr. Justice —— has appointed ——, the —— day of ——, 188—, at —— o'clock in the ——noon, for the further consideration, at the chambers of the said judge, of the application made by the summons dated the —— day of ——, 188—, taken out in this action [*or*, matter] on behalf of the plaintiff [*or as may be*].

1096.

Summons to dismiss, or stay proceedings on, an originating summons taken out without authority. [Dan. Pr. 314—316, 967.]

Formal parts: see Form 43 *or* 1077.

on the part of A. B., in the summons taken out in this action [*or*, matter], dated the —— day of ——, 188—, named as the applicant [*or*, as one of the applicants] therein:

1. That the said summons may be taken off the file of this Honourable Court, and may be dismissed with costs: on the ground that the same has been taken out without the authority of the applicant.

Or, if the summons is by a co-applicant: That the name of the said A. B. may be struck out of the original summons, filed in the Central Office, on the ground that the said summons has been taken out without his authority; and that no further proceedings may be taken in his name, or on his behalf.

2. That the defendant's [*or*, respondent's] costs occasioned by the said summons may be taxed; and that Mr. C. D., the solicitor by whom

(*w*) See R. S. C. Ord. LV. 23; App. A., Part II., No. 1; and note (*g*), *supra*. An infant defendant appears by guardian *ad litem*: R. S. C. Ord. XVI. 18, 19. For form of affidavit on such appearance, see R. S. C. App. A., Part II., No. 8; and Form 92. In the case of a person of unsound mind, not so found, a guardian *ad litem* must be appointed. A fee of 2*s.* is payable on entering appearance, for each person: by a stamp impressed on the memorandum or form, which can be obtained at the Inland Revenue Office, Royal Courts of Justice: Ord. as to S. C. Fees, 1884, Sched. No. 17; Ord. as to Fees, &c., July, 1884, p. 5.

(*x*) See R. S. C. Ord. LV. 23; and note (*g*), *supra*.

(*y*) See R. S. C. Ord. LIV. 8; and note (*a*), *supra*. As to continuation of proceedings by adjournment, and the course where a break occurs in the adjournment, see Dan. Pr. 971, note (*r*).

the said summons has been taken out, may be ordered to pay such costs to the persons entitled thereto.

3. That in case he shall neglect so to do, and the applicant shall pay such costs, or any part thereof, the said C. D. may be ordered to repay to the applicant what he shall so pay, together with such costs as he shall be put to by reason of such non-payment.

4. That the said C. D. may be ordered to pay to the applicant his costs, if any, of the said summons, and consequent thereon, and his costs of this application, to be taxed as between solicitor and client.

1097.

Summons to dismiss an ordinary summons taken out without authority. [Dan. Pr. 314—316, 967.]

Formal parts: see Form 43 or 1077.

on the part of A. B., in the summons taken out in this action [*or*, matter], dated the —— day of ——, 188—, named as the applicant therein:

1. That the said summons may be dismissed with costs, on the ground that the same has been taken out without the authority of the said A. B.

2. That the respondent's costs of the said summons may be taxed.

3. That Mr. C. D., the solicitor (*Continue as in* Form 1096, par. 2, *to the end*).

1098.

Affidavit in support. [Dan. Pr. 968.]

Formal parts: see Form 6.

1. (*Show when deponent first became aware that the summons had been taken out in his name.*)

2. (*State object of the summons.*)

3. (*Prove that the solicitor by whom the summons has been taken out has not been authorised by the applicant, and that there has been no consent or acquiescence on the part of the applicant.*)

4. (*State any communication had with the solicitor who took out the summons, and explain the cause of any delay in applying, since the deponent discovered that the summons had been issued.*)

5. (*Show means of knowledge.*)

1099.

Notice that a summons will be attended by counsel before the Chief Clerk (*z*). [Dan. Pr. 973.]

Formal parts: see Form 37.

Take notice that we shall attend the summons in this action [*or*, matter], dated the —— day of ——, 188—, taken out on the part of the plaintiff [*or as may be*], by counsel on behalf of the plaintiff [*or as may be*].

1100.

Notice that a summons adjourned to the judge will be attended by counsel (*a*). [Dan. Pr. 974, note (*m*).]

Formal parts: see Form 37.

Take notice that his lordship Mr. Justice —— will be attended by

(*z*) Counsel not unfrequently attend before the Chief Clerk. In such case notice should be given.

(*a*) Mr. Justice Chitty alone of the Judges of the Chancery Division hears counsel

counsel on behalf of the plaintiff [*or as may be*], on the hearing by his lordship of the summons, dated the —— day of ——, 188—, taken out in this action [*or*, matter] on behalf of the plaintiff [*or as may be*].

(2.) *Evidence* (*b*).

(*b*) *Evidence at Chambers.—Summary of Material Provisions of R. S. C.* 1883.

A. *By affidavit:—*

	Order.
Attendance of witness for cross-examination.—Upon any summons evidence may be given by affidavit, but the deponent may be ordered to attend for cross-examination	XXXVIII. 1.
Notice of reading affidavits.—Must be given by party intending to use the same	,, 20.
Affidavits previously used in Court.—May be used in Chambers	XXXVII. 25 and XXXVIII. 21.
Exhibits.—Accounts, extracts from parish registers, particulars of creditors' debts, and other documents referred to by affidavit, must not be annexed to the affidavit, but be referred to as exhibits. Every certificate on an exhibit must be marked with the short title of the cause or matter	XXXVIII. 23, 24.

B. *Oral evidence:—*

Subpœna for attendance of a witness in Chambers.—Will issue from the Central Office on a note from the Judge	XXXVII. 28.
Summoning witnesses.—A Chief Clerk can summon parties and witnesses, and examine them either upon interrogatories or *viva voce*. The attendance of witnesses can be enforced by the same means as in Court	LV. 16, 17.
Chief Clerk's summons.—For attendance of parties, witnesses, or others, must be in the prescribed form (App. L., No. 1)	,, 24.
Evidence on claims.—Where, on the day fixed for adjudication, any claim remains undisposed of, an adjourned day for hearing such claim must be fixed, and a time may be named within which evidence on both sides is to be closed, and directions may be given as to the mode in which such evidence is to be adduced	,, 54.

(A.) *Evidence by Affidavit* (*c*).

(*Same as* Form 29.)

1101. Notice of filing an affidavit.

1102. Notice of intention to use an affidavit, or affirmation, on a proceeding at chambers (*d*). [Dan. Pr. 976.]

Formal parts: see Form 37.

Take notice that the plaintiff [*or as may be*] intends to use in (*State on what proceeding; as thus:*

in Chambers. As to the costs of counsel attending in Chambers, see R. S. C. Ord. LXV. 27 (16); Dan. Pr. 974, note (*m*). As to adjournment from the Chief Clerk to the Judge, see R. S. C. Ord. LV. 69; Dan. Pr. 961; *Upton* v. *Brown*, 20 Ch. D. 731; 30 W. R. 817; *Re Watts, Smith* v. *Watts*, 22 Ch. D. 5. As to adjournment from Chambers into Court, see Dan. Pr. 973, 974; R. S. C. Ord. LIV. 9.

(*c*) Evidence in Chambers is ordinarily adduced by affidavit: see Dan. Pr. 975. As to the formal parts of affidavits, &c., see Forms 6—26.

(*d*) See R. S. C. Ord. XXXVIII. 20, 21; and note (*b*), *supra*.

the hearing of the summons taken out on his behalf, dated the —— day of ——, 188—,

Or, the prosecution of the accounts and inquiries directed by the judgment [*or*, order] dated the —— day of ——, 188— [*or as may be*],

the affidavit [*or*, affirmation] of A. B., filed in this action [*or*, matter] on the —— day of ——, 188—.

Or, the following affidavits and affirmation filed in this action [*or*, matter]; namely: the joint affidavit of A. B. and C. D., filed the —— day of ——, 188—; the affidavit of E. F., and the affirmation of G. H., both filed the —— day of ——, 188— [*or as may be*].

1103.

Notice of intention to use as evidence in chambers, evidence taken in another cause or matter (*e*). [Dan. Pr. 976.]

Formal parts: see Form 37.

Take notice, that (we) intend to read upon the hearing of the summons herein taken out on behalf of the plaintiff [*or as may be*], dated the —— day of ——, 188—,

Or, in answer to the (first) inquiry directed by the judgment [*or*, order] dated the —— day of ——, 188— [*or as may be*],

the following affidavits [*or as may be*] filed in the action of B. *v.* D., 188—, B. No. ——; namely (*Describe the affidavits, or other documents; as in* Form 659 *or* 660).

1104.

Summons for attendance for cross-examination of a deponent who has made an affidavit (*f*). [Dan. Pr. 975, 982.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that he may be at liberty to cross-examine X. Y., of (*address and description*), upon the affidavit made by him in this action [*or*, matter], and filed on the —— day of ——, 188—, by the defendant for the purpose of being read and used upon the hearing of the summons taken out by the defendant in this action [*or*, matter], and dated the —— day of ——, 188—. And that such cross-examination may be taken before one of the Examiners of the Court [*or*, the Chief Clerk of his lordship Mr. Justice ——]. And that the defendant may be ordered to produce the said X. Y. for cross-examination before the said Examiner [*or*, Chief Clerk] accordingly at such time and place as the said Examiner [*or*, Chief Clerk] may appoint. And that, unless the said X. Y. be produced accordingly, the said defendant may not be at liberty to read or use the said affidavit as evidence in this action [*or*, matter] without the special leave of the Court.

(*e*) See R. S. C. Ord. XXXVII. 3.

(*f*) See R. S. C. Ord. XXXVIII. 1; and note (*b*), *supra*. The attendance for cross-examination will not be ordered, where the application is made vexatiously: *Fenton* v. *Cumberlege*, W. N. (1883), 116; *Raymond* v. *Tapson*, 22 Ch. D. 430. The party requiring the production is primarily liable for the expenses of the examination: *Knight* v. *Gardner*, 25 Ch. D. 297: 32 W. R. 469 (C. A.), overruling V.-C. Bacon, S. C. 24 Ch. D. 606: 31 W. R. 911. As to the examiners of the Court, see R. S. C. Ord. XXXVII. 39—50, as amended by R. S. C. Oct. 1884, 7—10; and note (*c*), at p. 284.

(B.) *Oral Evidence.*

1105. Summons that evidence may be taken before one of the examiners of the court (*g*).

(*See* Form 701, *which can be readily adapted to the case of proceedings in Chambers.*)

1106. Summons to appoint a special examiner, and affidavit in support.

(*See* Forms 702 *and* 703, *which can be readily adapted to the case of proceedings in Chambers.*)

1107. Notice to witness to attend before the examiner.

(*Same as* Form 708.)

—

1108. Compelling the attendance of witnesses before the examiner.

(*See* Forms 733 *to* 768.)

1109. Chief Clerk's summons for the attendance of a witness for examination (*h*). [Dan. Pr. 960, 977, 982.]

(*Title and reference to the record.*)

The plaintiff A. B.

Or, The defendant A. B.

Or, A. B., of (*residence and addition*)

Or, A. B., of, *&c.*, and C. D., of, *&c.*

is [*or,* are] hereby summoned to attend at the Chambers of Mr. Justice ——, at the Royal Courts of Justice, on ——, the —— day of ——, 188—, at —— of the clock in the —— noon,

If the person summoned is a party to the action, add: to be examined,

But if he is not, add: to be examined as a witness,

on the part of (*State whom; as thus:*

the defendant E. F.—*or,* the plaintiff—*or,* G. H.),

for the purpose of the proceedings directed by Mr. Justice —— to be taken before me.

If the person served is required to produce documents, add: And the said A. B. is hereby also required then and there to bring with

(*g*) For form of direction to an examiner to take the examination of a witness, see Dan. Forms, 3rd ed., Form 902; Dan. Pr. 978, 979, and note (*d*). The direction appears to be no longer necessary, as an order is required in every case; see note (*d*) to Form 699.

(*h*) See R. S. C. Ord. LV. 24; App. L. No. 1; and note (*b*), *supra*. On issuing the summons, a fee of 3*s.* is payable: by a stamp impressed or adhesive: Ord. as to S. C. Fees, 1884, Sched. No. 11; Ord. as to Fees, &c., July, 1884, p. 4. The summons may contain the names of three witnesses.

him and produce the following documents; that is to say: (*Specify the documents to be produced* (*i*)).

Dated this —— day of ——, 188—.

R. M., Chief Clerk.

This summons was taken out by A. and B., of Lincoln's Inn, in the county of Middlesex, solicitors for the defendant E. F. [*or as may be*].

1110.

Affidavit of service of summons and of non-attendance thereunder.

Formal parts: see Form 6.

1. On ——, the —— day of ——, 188—, I served (*Describe the person served; as thus:*

the plaintiff A. B.; *or*, the defendant A. B.;

Or, A. B., the person named in the summons hereinafter mentioned),

with a summons in this action [*or*, matter], dated the —— day of —— 188—, issued from the Chambers of Mr. Justice ——, and signed by R. M., esquire, one of the Chief Clerks of the said Judge: by delivering to, and leaving with, the said A. B., personally, at (*State where*), in the (county) of ——, a true copy of the said summons; and I at the same time showed the said summons to the said A. B.

2. By the said summons the said A. B. was required to attend (*Recite the body of the summons*).

3. There was at the foot (*Continue as in paragraph* 2 *of* Form 34, *to the end of that paragraph*).

4. *Prove default of the party summoned; as thus:* On ——, the —— day of ——, 188—, at —— o'clock in the —— noon, the time appointed for the attendance of the said A. B., as aforesaid, I attended before the said Chief Clerk, at the Chambers of the said Judge; but the said A. B. did not then and there attend to be examined (*If so:* and produce the said documents), as aforesaid; and the said A. B. has neglected or refused to obey the said summons.

1111.

Motion paper for a *habeas* to compel attendance before the Chief Clerk of a person in custody (*j*). [Dan. Pr. 977.]

Formal parts: see Form 36.

To move on behalf of the plaintiff [*or as may be*], that a *habeas* may issue, directed to the Governor of Holloway Prison [*or as may be*], to bring E. F. before the Chief Clerk of Mr. Justice ——, at Chambers, on the ——, 188—, and on such other days as he shall appoint: to be examined as a witness for the plaintiff [*or as may be*].

An affidavit in support, and the Governor's certificate of custody, accompany.

(*i*) This direction is not in R. S. C., App. L., No. 1, but, in practice, is added whenever necessary. For the mode of describing the documents, see Form 751, and note (*r*) thereto.

(*j*) For order to attend at Chambers, in like case, see *Buckeridge* v. *Whalley*, 6 W. R. 180, V.-C. K. No order need be drawn up: see R. S. C. Ord. LII. 14.

1112.
Petition of course for the like.
[Dan. Pr. 977.]

Formal parts: see Form 39.

The humble petition of the plaintiff [*or as may be*].

Showeth as follows:

1. *Show state of the cause, or matter; as thus:* Pursuant to the judgment [*or*, an order] dated the —— day of ——, 188—, certain accounts and inquiries are now being taken and made by the Chief Clerk of his lordship Mr. Justice ——, in which your petitioner is interested.

2. *Show grounds for requiring the attendance of the prisoner; as thus:* E. F., now a prisoner in Holloway Prison [*or as may be*], is a material witness for your petitioner on the said accounts and inquiries; and your petitioner is advised to examine the said E. F. *vivâ voce*, before the said Chief Clerk.

3. By reason of the said E. F. being a prisoner, your petitioner is unable to procure his attendance for the purpose aforesaid.

Your petitioner therefore humbly prays, that a writ of *habeas corpus* may issue, directed to the Governor of the said prison, to bring the said E. F. before the said Chief Clerk at the Chambers of Mr. Justice ——, on (*State when*), and on such other days as the said Chief Clerk shall appoint, to be examined as a witness for your petitioner [*or as may be*].

1113.
Affidavit in support of motion or petition for a *habeas*.
[Dan. Pr. 977.]

Formal parts: see Form 6.

1—3. (*State the facts, as in* Form 1112; *substituting* the plaintiff, *or as may be, for* your petitioner.)

4. (*Show means of knowledge.*)

1114.
Præcipe for the writ.

(*Same as* Form 747.)

1115.
The writ (*k*).
[Dan. Pr. 977.

Proceed as in Form 748, *to* greeting:

We command you, that you bring E. F., who it is said is detained in our prison under your custody, before R. M., esquire, one of the Chief Clerks of his lordship Mr. Justice ——, at the Chambers of the said Judge in the Royal Courts of Justice, on ——, the —— day of ——, instant [*or*, next], at the hour of —— of the clock in the ——noon, and on such other days as the said Chief Clerk shall appoint, to give evidence in this action [*or*, matter] on behalf of the plaintiff [*or as may be*]. And that immediately after the said E. F. shall have so given

(*k*) See R. S. C. App. J., No. 2, from which this form is adapted.

his evidence you safely conduct him to the prison from which he shall have been brought. Witness (*&c.: Conclude as in* Form 734).

1116.
Indorsement on the writ.

(*Same as* Form 3 *or* 4.)

1117.
Oaths, affirmations, and declarations of parties or witnesses before a chief clerk (*l*).

(*Same as* Forms 770, 772, 774, 776, 778, 780.)

1118.
Formal parts of depositions of parties or witnesses examined in chief before a chief clerk (*m*).

[Dan. Pr. 978.]

(*Set out the full title of the action or matter, and the reference to the record.*)

Deposition of a witness [*or*, Depositions of witnesses] examined in the above action [*or*, matter],

before me,

R. M., Chief Clerk.

Sworn the —— day of ——, 188—. } A. B., of (*residence and addition*), examined on behalf of the plaintiff [*or as may be*], saith as follows:—

I was not, *&c.*

—— day of ——, 188—. } Examination continued:—

When I saw, *&c.*

Cross-examined on behalf of the defendant C. D. [*or as may be*]:—

I am, *&c.*

Re-examined on behalf of the plaintiff [*or as may be*]:—

I shall, *&c.*

Cross-examined on behalf of the defendant C. D. [*or as may be*], upon new matter in the re-examination:—

Having now seen, *&c.*

Re-examined on behalf of the plaintiff [*or as may be*]:—

My impression still is, *&c.*

A. B.

Sworn the —— day of ——, 188—. } E. F., of (*&c.: as above*).

(*l*) As to the power of a Chief Clerk to administer an oath, or receive an affirmation, see R. S. C. Ord. LV. 16; and note (*b*), *supra*.

(*m*) The examination of a witness is taken before a Chief Clerk in the same manner as before an examiner. As to the practice on taking an examination before an examiner, see R. S. C. Ord. XXXVII. 10—24, 44—49, as amended by R. S. C. Oct. 1884, rr. 6—10; and notes (*b*), and (*c*), at pp. 283, 284.

I hereby certify that the evidence contained in this and the —— preceding sheets of paper was taken by me [*or*, in my presence], and was afterwards read over to the witness [*or*, respective witnesses], and signed by him [*or*, them], in the presence of the parties attending.

R. M., Chief Clerk.

1119.

Formal parts of deposition of a party or witness cross-examined on his affidavit, before a chief clerk.

[Dan. Pr. 978, 982.]

(*Set out the full title of the cause or matter, and the reference to the record.*)

Deposition of a witness cross-examined in the above action [*or*, matter],

before me,

R. M., Chief Clerk.

Sworn the —— day of ——, 188—. } A. B., cross-examined on behalf of the defendant C. D. [*or as may be*], on his affidavit filed the —— day of ——, 188—, in this action [*or* matter], saith as follows :—

I was lately, *&c.*

Re-examined on behalf of the plaintiff [*or as may be*] :—

I think it was, &c.

Cross-examined on behalf of the defendant C. D. [*or as may be*], upon new matter in the re-examination :—

Having now seen, *&c.*

Re-examined on behalf of the plaintiff [*or as may be*] :—

My impression is, *&c.*

A. B.

I hereby certify (*Continue as in* Form 1118, *to the end*).

(C.) *Examination on Interrogatories* (*n*).

1120.

Formal parts of interrogatories, for the examination of a party or witness before a chief clerk (*o*).

[Dan. Pr. 979.]

(*Title and reference to the record.*)

Interrogatories exhibited on the part of the above-named plaintiff A. B. [*or as may be*], for the examination of the above-named defendant C. D. [*or as may be*], for the purpose of the proceedings directed by his lordship Mr. Justice ——, to be taken, pursuant to the judgment [*or*, order] in this action [*or*, matter] dated the —— day of ——, 188—.

1. Do you know, *&c.*
2. Were you present, *&c.*
3. Did not, *&c.*

(*n*) As to the power of the Chief Clerk to examine parties and witnesses on interrogatories, see R. S. C. Ord. LV. 16 ; Dan. Pr. 979 ; and note (*b*), *supra*.

(*o*) For forms of interrogatories for the examination of parties and witnesses before a Master in Ordinary, which can readily be adapted to a like examination before a Chief Clerk, see 2 Van Hey. 274—319—329 ; Bennett's M. O. App. 33—37 ; 2 Grant, 162—165. For the practice at Chambers as to such examination, see Dan. Pr. 979—981 ; and in the Master's office, see Dan. Pr., ed. 2, 1144—1148 ; Bennett's M. O. Index, 160, 161 ; 1 Grant, 309 *et seq.*

1121.

Notice of appointment to settle interrogatories. [Dan. Pr. 979.]

Formal parts: see Form 37.

Take notice that the Chief Clerk of his lordship Mr. Justice —— has appointed ——, the —— day of ——, 188—, at —— of the clock in the ——noon, at the Chambers of the said Judge, to settle the interrogatories for the examination of the plaintiff A. B. [*or as may be*], under the judgment [*or*, order] dated the —— day of ——, 188—.

1122.

Memorandum of allowance of interrogatories (*p*). [Dan. Pr. 979.]

——, 188—.

(*Short title.*)

These interrogatories have been settled and allowed.

R. M., Chief Clerk.

1123.

Notice of allowance of interrogatories. [Dan. Pr. 979.]

Formal parts: see Form 37.

Take notice that interrogatories have been settled and allowed at the Chambers of his lordship Mr. Justice ——, for the examination of the plaintiff [*or as may be*], under the judgment [*or*, order] dated the ——, 188 — ; and that such interrogatories have been left, in duplicate, at the said Chambers.

1124.

Summons to limit a time for filing the examination (*q*). [Dan. Pr. 979.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant C. D. [*or as may be*], that the plaintiff A. B. [*or as may be*] may be ordered, within (four) days after service of the order to be made hereon, to file in the Central Office his answer and examination to the interrogatories settled and allowed for that purpose, under the judgment [*or*, order] dated the —— day of ——, 188—.

1125.

Summons for further time to file the examination (*r*). [Dan. Pr. 980.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff A. B. [*or as may be*], that he may have (one month's) further time to file his answer and examination to the interrogatories settled and allowed for his examination under the judgment [*or*, order] dated the —— day of ——, 188—.

(*p*) The interrogatories, when settled at Chambers, are written, in duplicate, upon foolscap paper bookwise: see R. S. C. Ord. LXVI. 2.

(*q*) For affidavit of service of order, see Form 32.

(*r*) For order in like case, see *Watkins* v. *Thomas*, M. R. at Chambers, 23 Dec. 1869, Reg. Lib. B. 3157.

1126.
Formal parts of the examination (*s*).
[Dan. Pr. 980.]

(*Title and reference to the record.*)

The answer and examination of the above-named plaintiff A. B. [*or as may be*], to the interrogatories exhibited (*Continue as in* Form 1120, *to the end of the heading*).

In answer to the said interrogatories, I, the plaintiff A. B. [*or as may be*], make oath and say as follows :—

1. To the first interrogatory :—I believe, *&c.*
2. To the second interrogatory :—I have, *&c.*

Sworn (*&c.: see* Form 9).

1127.
Notice of having filed the examination.
[Dan. Pr. 980.]

Formal parts : see Form 37.

Take notice, that I have this day filed the answer and examination of the plaintiff A. B. [*or as may be*], to the interrogatories settled and allowed for his examination, under the judgment [*or*, order], dated the ——, 188—.

1128.
Motion paper for discharge from custody on filing the examination.
[Dan. Pr. 980.]

Formal parts : see Form 36.

To move on behalf of the plaintiff [*or as may be*], that he may be discharged out of the custody of the Governor of Holloway Prison [*or as may be*], touching his contempt in not putting in his examination to interrogatories allowed for such examination under the judgment [*or*, order], dated the —— day of ——, 188— : on payment, or tender, of the costs of such contempt to the solicitor or agent of the defendant [*or as may be*] : the examination having been now filed.

An office copy of the examination, and the Governor's certificate of custody, accompany.

1129.
Petition of course for the like.
[Dan. Pr. 980.]

Formal parts : see Form 39.

The humble petition of the plaintiff [*or as may be*].

Showeth as follows :

Your petitioner is in the custody of the Governor of Holloway Prison [*or as may be*], under a writ of attachment issued out of this honourable Court, for a contempt incurred by your petitioner, in not filing his examination to certain interrogatories settled and allowed for that purpose, under the judgment [*or*, order], in this action [*or*, matter], dated the —— day of ——, 188—.

Your petitioner has now filed his examination in answer to such interrogatories.

Your petitioner therefore humbly prays, that he may be discharged from the said custody, touching his said contempt : upon payment or tender of the costs thereof to the solicitor or agent of the defendant C. D. [*or as may be*].

(*s*) The examination must be written on foolscap paper bookwise : see R. S. C. Ord. LXVI. 2.

1130.

Notice of appointment to consider sufficiency of the examination. [Dan. Pr. 981.]

Formal parts: see Form 37.

Take notice, that the Chief Clerk of his lordship Mr. Justice —— has appointed ——, the —— day of ——, 188—, at —— of the clock in the ——noon, at the Chambers of the said Judge, to consider the sufficiency of the answer and examination of the plaintiff A. B. [*or as may be*] to the interrogatories settled and allowed for his examination, under the judgment [*or*, order] dated the ——, 188—.

(D.) *Documentary Evidence* (*t*).

1131.

Notice to produce documents. [Dan. Pr. 982.]

Formal parts: see Form 37.

Take notice, that you are hereby required to produce to his lordship, Mr. Justice ——, and to his Chief Clerk, at the Chambers of the said Judge, on the hearing of the summons taken out on behalf of the plaintiff [*or as may be*], returnable on the —— day of ——, 188—,

Or, on the appointment, on the —— day of ——, 188—, to proceed with the accounts and inquiries directed by the judgment [*or*, order], dated the —— day of ——, 188— [*or as may be*],

the following documents; namely: (*Describe the documents to be produced; as thus:*

the probate of the will of A. B., the testator in the said summons named.

Or, the letters of administration of the personal estate of A. B., the intestate in the said summons named.

Or, the agreement, dated the 8th of June, 1869, in the affidavit of C. D., filed the ——, 188—, mentioned.

1132.

Obtaining production of documents deposited in Court under an order. [Dan. Pr. 983.]

(*Same as* Forms 1860 *to* 1867.)

1133.

Request by chief clerk that the Bank of England will furnish information from their books. [Dan. Pr. 983.]

Mr. Justice ——'s Chambers,
Royal Courts of Justice,
——, 188—.

Gentlemen.

In taking certain accounts, and answering certain inquiries, in these Chambers, under a judgment [*or*, order], dated the ——, 188—, in the action of A. *v.* B. [*or as may be*], it is requisite, for the due prosecution thereof, that the following information should be obtained from your books; namely: (*State what; as thus:* the date on which a sum of

(*t*) As to documentary evidence, see Forms 657 to 677, most of which Forms apply, or may easily be adapted, to the case of proceedings in Chambers.

£1,000 Consolidated £3 per cent. annuities, standing, on the 1st of January, 188—, in the name of C. D., of (*residence and addition*) (*u*), was transferred from such name, and to whom).

I am, therefore, directed by Mr. Justice —— to request that you will please to direct such information to be furnished to me.

I am, *&c.*,

R. M., Chief Clerk.

To the Governor and Company of the Bank of England.

1134.

Request by a solicitor that the Bank of England will furnish him with a certificate of stock, &c., under 39 & 40 Geo. III. c. 36 (*v*).

[Dan. Pr. 983.]

(*Address and date.*)

Gentlemen.

In an action of A. *v.* B. now pending in the Chancery Division of the High Court of Justice, my client B. A., the plaintiff therein, is about to apply to the Court for an order on you to suffer a transfer to be made to the said B. A. of so much of a sum of £5,000 Consolidated £3 per cent. annuities as is now standing in your books in the name of the defendant D. B., of (*residence and addition*), and to pay any accrued or accruing dividends thereon to the said B. A.

I have, therefore, to request that, in conformity with the Act of Parliament 39th & 40th George the 3rd, cap. 36, you will direct a certificate, signed by your Accountant, to be furnished to me, stating the amount of Consolidated £3 per cent. annuities now standing in your books in the name of the said D. B., and the amount of dividends accrued thereon now unreceived.

I have also particularly to require that you will direct a like certificate to be furnished to me, stating when any part of the said £5,000 Consolidated £3 per cent. annuities was transferred, and by whom such transfer was made.

I am, *&c.*,

X. Y.

To the Governor and Company of the Bank of England.

(E.) *Time for closing Evidence.*

1135.

Summons to limit a time for taking evidence (*w*).

[Dan. Pr. 982.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the time for evidence to be adduced by A. B. [*or as may be*], in support of

Or, in opposition to—*or*, in reply to the evidence in opposition to

the claim made by A. B. under the account [*or*, inquiry] numbered (5)

(*u*) This should, as nearly as possible, correspond with the description in the bank books.

(*v*) See 39 & 40 Geo. III. c. 36, ss. 1, 2.

(*w*) See R. S. C. Ord. LV. 54; and note (*b*), *supra*. The times for evidence on both sides are generally fixed by the Chief Clerk without the necessity for any formal order.

in the judgment [*or*, order], dated the —— day of ——, 188— [*or as may be*], may be limited, and that all necessary directions may be given for closing the evidence upon such claim.

1136.

Summons for further time to adduce evidence (*x*).
[Dan. Pr. 982.]

Formal parts: see Form 43.

on the part of the plaintiff [*or as may be*], that the time limited for the applicant to adduce evidence in opposition to the claim made by A. B. [*or as may be*], under the account [*or*, inquiry] numbered (5) in the judgment [*or*, order], dated the —— day of ——, 188—, may be enlarged to the —— day of ——, 188—.

(3.) *Statements of Facts* (*y*).

1137.

Formal parts of a concise statement for chambers.
[Dan. Pr. 975.]

(*Short title and reference to the record.*)

Concise statement of the plaintiff [*or*, defendant A. B.—*or as may be*], as to (*State what; as thus:* the residuary legatees of the testator A. B., in answer to the first inquiry directed by the judgment [*or*, order], dated the ——, 188— [*or as may be*]).

1.
2. } (*Set out the facts, in numbered paragraphs.*)
3.

(4.) *Scientific Assistance* (*z*).

1138.

Letter of instructions to a scientific person.
[Dan. Pr. 963.]

Mr. Justice ——'s Chambers, *&c.*
——, 188—.

SIR,

(*Short title.*)

By the judgment [*or*, order] dated the ——, 188—, made by Mr. Justice —— in this action [*or*, matter], an account is directed to be taken [*or*, an inquiry is directed to be made] as to (*State nature of the account or inquiry on which the assistance of the scientific person is sought*).

By consent of the plaintiff and defendant [*or as may be*], Mr. Justice —— has appointed you (*State what to do; as thus:* to inspect the said estate, and report to him what, in your opinion, is the amount of the abatement which ought to be made from the purchase-money thereof, by reason of the plaintiff not being able to make a title to the close of land called Whiteacre, numbered 15 on the map, marked A., sent herewith).

I send you herewith the following documents: (*Specify them*).

(*x*) See R. S. C. Ord. XXXVIII. 18; LXIV. 7.

(*y*) See R. S. C. Ord. LV. 37.

(*z*) See R. S. C. Ord. LV. 19. The percentage on accounts, under Ord. as to S. C. Fees, 1884, is payable where accounts have been referred to an accountant, if they are certified by the Chief Clerk: see *Hutchinson* v. *Norwood*, 32 W. R. 392.

Mr. A. B., of C., the plaintiff's solicitor, and Mr. D. E., of F., the defendant's solicitor, will furnish you with any further information you may require; and you will be so good as to communicate with them and arrange as to the time and mode of entering upon your duties [*or as may be*].

I will thank you to forward your report to me, as soon as it is ready.

The Rules of the Supreme Court under which the Judge is empowered to obtain the assistance of a scientific person provide that the allowance in respect of fees to such person shall be regulated by the Taxing Master of the Court, subject to appeal to the Court or Judge: whose decision is to be final; and you will please to consider that your appointment is made subject to this provision (*a*).

Be so good as to acknowledge the receipt of this communication.

I am, *&c.*,

To E. B., of, *&c.* R. M., Chief Clerk.

1139. Affidavit verifying the report of a scientific person. [Dan. Pr. 963.]

Formal parts: see Form 6.

The paper writing, marked A., now produced and shown to me (*b*), is the report made by me, pursuant to the instructions contained in the letter dated the —— day of ——, 188—, addressed to me in this action [*or*, matter] by R. M., esquire, Chief Clerk of his lordship Mr. Justice ——.

(5.) *Orders made in Chambers* (*c*).

1140. Notice of motion to set aside or discharge an order made at chambers (*d*). [Dan. Pr. 985.]

Formal parts: see Form 38.

on the part of the plaintiff [*or as may be*], that the order dated the ——, 188—, made at Chambers on the application of the defendant A. B. [*or as may be*], may be set aside [*or*, discharged].

(*a*) See R. S. C. Ord. LXV. 27 (36).

(*b*) For form of memorandum of exhibit, see Form 28.

(*c*) As to drawing up orders made in Chambers, see Dan. Pr. 984; R. S. C. Ord. LV. 74. Every order which is to be acted upon by the Paymaster must be drawn up and entered by the Registrar: S. C. Funds Rules, 1884, r. 23. Before an order made in Chambers can be enforced by attachment it must be entered: *Ballard* v. *Tomlinson*, W. N. (1885), 90: 31 W. R. 563. On drawing up and entering orders made in Chambers a fee of 10*s.* is payable, if the order is made on the hearing of an originating summons; or on the hearing at Chambers of a cause or matter on further consideration; or if made under R. S. C. Ord. XV., XXXII. 6, XXXIII. 2; or if made on an application by Ord. LV. 2 (1), (2), (3), (5), (6), (7), or (10), directed to be disposed of in Chambers; and on any other order a fee of 5*s.* is payable: see Ord. as to S. C. Fees, 1884, Sched. Nos. 59, 60, 61, 62, 66; all these fees are payable by stamps impressed on the order: Ord. as to Fees, July, 1884, p. 9. For forms of order on summons, see 1 Seton, 60, 61. As to enforcing orders made in Chambers, see Dan. Pr. 986, 987.

(*d*) See 36 & 37 Vict. c. 66, ss. 49, 50; *Holloway* v. *Cheston*, 19 Ch. D. 516. The motion should be made within twenty-one days from drawing up of the order: unless in case of a simple refusal, when the twenty-one days are reckoned from such

1141.
Certificate of judge that case sufficiently argued in Chambers (*e*). [Dan. Pr. 985.]

(*Short title and reference to the record.*)

The application of (*State whom*) by summons dated the —— day of ——, 188— [*or as may be*], having been fully argued before Mr. Justice ——, in Chambers, his Lordship does not desire to hear any further argument on the said summons [*or as may be*].

Dated this —— day of ——, 188—.

R. M.,
Chief Clerk.

(6.) *Vacation Business* (*f*).

1142.
Formal parts of a summons returnable at the Chambers of another judge, by his special leave. [Dan. Pr. 986.]

(*Title and reference to the record.*)

Let all parties concerned attend at the Chambers of Mr. Justice —— (*name of the Vacation Judge*), situate in the Royal Courts of Justice, Strand, London, on —— the —— day of ——, 188—, at —— o'clock in the —— noon, by special leave of Mr. Justice —— (*name of the Vacation Judge*), on the hearing (*Continue as in* Form 43 *or* 1077, *to the end*).

---

refusal: *Heatley* v. *Newton*, 19 Ch. D. 326. After an application has been heard by the Judge in Chambers, fresh evidence will not be admitted on a motion to discharge the order: *Re Munns and Longden*, W. N. (1884), 117: 32 W. R. 675.

(*e*) This certificate is required by the Court of Appeal, before an appeal will be entertained direct from Chambers: *Re Elsom, Thomas* v. *Elsom*, 6 Ch. D. 346. In practice, however, the certificate is not usually given, but the Judge leaves the parties to move before him in Court to discharge the order: see *Holloway* v. *Cheston*, 19 Ch. D. 516. But cf. *Re Butler's Wharf Company, Anderson* v. *Butler's Wharf Company*, 21 Ch. D. 131. As to appeals from orders made by the Judge personally in Chambers, see Dan. Pr. 984—985.

(*f*) As to vacations, see R. S. C. Ord. LXIII. 4. As to sittings of vacation Judges, *Ibid.*, 12. As to the issue of summonses during vacation, *Ibid.*, 13. As to prosecution of judgments or orders in the intervals between the sittings, *Ibid.*, 14, 15. The following table shows the names of the vacation Judges since 1st Nov. 1875, and of the Judges of the Chancery Division at whose Chambers the vacation business of that Division has been taken:—

Year, commencing with Long Vacation.	Vacation Judges.		Chambers of
1875	Bacon, V.-C.		Bacon, V.-C.
1876	Field, J.	Huddleston, B.	Malins, V.-C.
1877	Fry, J.	Lopes, J.	Master of the Rolls.
1878	Hawkins, J.	Manisty, J.	Hall, V.-C.
1879	Bowen, J.	Stephen, J.	Bacon, V.-C.
1880	Coleridge, C.J.	Pollock, B.	Malins, V.-C.
1881	Kay, J.	Cave, J.	Master of the Rolls.
1882	North, J.	Day, J.	Kay, J.
1883	Pearson, J.	Butt, J.	Bacon, V.-C.
1884	Chitty, J.	Wills, J.	Pearson, J.

1143. Another form thereof. [Dan. Pr. 986.]

Prepare the summons in the common form: *see* Form 43 *or* 1077; and write the following memorandum in the margin:—

By permission of Mr. Justice —— (*name of the Vacation Judge*), this summons is to be attended at his Chambers in the Royal Courts of Justice.

(7.) *Allowance pending Litigation* (*g*).

1144. Summons for an allowance. [Dan. Pr. 988.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that (*Describe the allowance required, and out of what fund; as thus:*

the whole of the annual income of the real and personal estate [*or as may be*] of A. B., the testator in the pleadings named, may be allowed to the applicant, until the hearing of this cause;

Or, out of the annual income of the real and personal estate [*or as may be*] of A. B., *&c.*, the annual sum of £200 may be allowed to the applicant, until, *&c.*;

Or, out of the personal estate of A. B., *&c.*, the sum of £100 may be allowed to the applicant on account of his share thereof);

Describe the person or fund to pay; as thus:

And that the defendants C. D. and E. F., the trustees and executors of the said will

Or, And that the receiver appointed in this cause

may be directed to pay to the applicant the said annual income from time to time,

Or, the said annual sum of £200,

by half-yearly payments on the —— day of ——, and —— day of ——: the first of such payments to be made on the —— day of ——, 188—.

Or, And that out of the £—— cash in Court to the credit of this cause, H. *v.* D., 188—, H. No. ——, the said £100 may be paid to the applicant.

1145. Admission of assets by or on behalf of an executor or administrator. [Dan. Pr. 988.]

(*Same as* Form 1246.)

Section II.—Proceedings originating in Chambers.

Administration of Estates and Trusts on Summons (*a*).

(*Dan. Pr.*, pp. 989—995, cccxc.)

(*a*) *Administration of Estates and Trusts.—Summary of Material Provisions of R. S. C.* 1883.

A. *Determination of questions without administration:*— Executors or administrators, or trustees, or any of them, or a creditor, devisee, legatee, next-of-kin, heir-at-law or customary heir, or *cestui que trust*, or any person

ORDER.

(*g*) See R. S. C. Ord. L. 9.

ORDER.

claiming under such creditor, &c., may take out an originating summons for the determination, without an administration of the estate or trust, of any of the following questions or matters:—

(*a.*) Any question affecting the rights or interests of such creditor, devisee, legatee, next-of-kin, or heir-at-law, or *cestui que trust:*

(*b.*) the ascertainment of any class of creditors, legatees, devisees, next-of-kin, or others:

(*c.*) the furnishing of any particular accounts by the executors, or administrators, or trustees, and the vouching (when necessary) of such accounts:

(*d.*) the payment into Court of any money in the hands of the executors, administrators, or trustees: LV. 3.

(*e.*) directing the executors, or administrators, or trustees to do, or abstain from doing, any particular act in their character as such executors, or administrators, or trustees:

(*f.*) the approval of any sale, purchase, compromise, or other transaction:

(*g.*) the determination of any question arising in the administration of the estate or trust.

B. *Order for administration:*—

Any of the persons above named may apply for and obtain an order for—

(*a.*) The administration of the personal estate of the deceased: ,, 4.

(*b.*) the administration of the real estate of the deceased:

(*c.*) the administration of the trust.

Persons to be served:—

A. Where the summons is taken out by an executor, or administrator, or trustee:—

(1.) *For the determination of any question:*—

(*a.*) Under R. 3, sub-s. (*a*), (*e*), (*f*), or (*g*)—the persons, or one of the persons, whose rights or interests are sought to be affected:

(*b.*) under R. 3, sub-s. (*b*)—any member or alleged member of the class:

(*c.*) under R. 3, sub-s. (*c*)—any person interested in taking the accounts:

(*d.*) under R. 3, sub-s. (*d*)—any person interested in the money.

(2.) *Further relief:*— ,, 5.

(*e.*) Under R. 4, sub-s. (*a*)—the residuary legatees, or next-of-kin, or some of them:

(*f.*) under R. 4, sub-s. (*b*)—the residuary devisees, or heirs, or some of them:

(*g.*) under R. 4, sub-s. (*c*)—the *cestuis que trust*, or some of them:

(3.) *Generally:*—

(*h.*) Where all the executors, or administrators, or trustees do not concur in taking out the summons—those who do not concur.

B. Where the summons is taken out by any person other than the executors, administrators, or trustees—the said executors, administrators, or trustees.

The Court or a Judge may direct other persons to be served. ,, 6.

Evidence.—The application must be supported by such evidence as the Court or a Judge may require; and directions may be given for the trial of any questions arising thereout . ,, 7.

	ORDER.
Judgment upon summons.—The Court or a Judge may pronounce such judgment as the nature of the case may require .	LV. 8.
Carriage and service of judgment.—Special directions may be given as to the carriage or execution of the judgment and the service thereof upon persons not parties	,, 9.
Judge not bound to order administration.—No judgment or order for administration need be made if the questions between the parties can be properly determined without it . . .	,, 10.
Marking of summons.—When any summons under Rules 3 and 4 has been taken out, every subsequent summons relating to the same estate or trust must be marked with the name of the Judge to whom the matter is assigned: and if marked with the name of another Judge, the executors, administrators, or trustees, must apply for transfer	,, 11.
Interference with discretion.—The issue of a summons, under R. 3, will not interfere with or control the discretion vested in any executor, administrator, or trustee, except so far as it is necessarily involved in the relief sought	,, 12.
Chief Clerks.—No order for general administration can be made by a Chief Clerk	,, 15.

1146. Originating summons for determination of a question or matter arising in the administration of a deceased person's estate (*b*). [Dan. Pr. 989.]

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*c*).)

In the Matter of the estate of A. B.
Between C. D. (*d*) . . . . Plaintiff,
and
E. F. . . . . Defendant.

Let the defendant E. F. (*State in what character he is sued; as thus:*
the executor [*or*, one of the executors] of
Or, the administrator [*or*, one of the administrators] of the personal estate of
Or, a creditor upon the estate of
Or, a devisee [*or*, specific—*or*, pecuniary—*or*, residuary legatee] under the will of
Or, the next of kin [*or*, one of the next of kin] of
Or, the heir-at-law [*or*, customary heir] of

(*b*) See R. S. C. Ord. LV. 3; and note (*a*), *supra*. The practice introduced by R. S. C. Ord. LV. 3, supersedes that by administration summons under 15 & 16 Vict. c. 86, ss. 45—47 (repealed by 46 & 47 Vict. c. 49). As to proceedings by administration summons, see 1 Seton, 43; 2 *Ibid.*, 855—857. As to the title of originating summonses, see Form 1079. As to the questions which can be determined on an originating summons, under R. S. C. Ord. LV. 3, see *Re Garnett, Gandy* v. *Macaulay*, 32 W. R. 474; *Re Warren, Weedon* v. *Reading*, W. N. (1884), 112; *Re Walley, Walley* v. *Robinson*, W. N. (1884), 144; *Suffolk* v. *Lawrence*, W. N. (1884), 158: 32 W. R. 899; *Borthwick* v. *Ransford*, 28 Ch. D. 79: 33 W. R. 161. It has been questioned whether an order short of one for general administration will bind creditors: *In re Mills, Mills* v. *Mills*, W. N. (1884), 21. The Judge will exercise a discretion in each case, whether to make the order or not: *In re Jennings, Stock* v. *Jennings*, 28 Sol. J. 477.

(*c*) As to assigning to a particular Judge, see R. S. C. Ord. V. 9 (*b*).

(*d*) As to the description of the plaintiff where he is under disability, or sues on behalf of himself and others, see Forms 204, *et seq.*, and notes thereto.

Or, the assignee of the legacy of £100 given to G. H. by the will of)

the above-named A. B., attend at the Chambers of Mr. Justice —— (*see* Form 1077), at the Royal Courts of Justice, Strand, London, at the time specified in the margin [*or*, at the foot] hereof, upon the application of C. D., of (*Place of residence and occupation*), the—*or*, who claims to be interested in the relief sought as—(*State in what character the plaintiff sues: see the examples above given*), that the following questions or matters arising in the administration of the estate of the said A. B. may be determined under the Rules of the Supreme Court, Order 55, rule 3, sub-section (*a*) [*or as may be*], and relief given in respect thereof, without an administration of the estate of the said A. B., that is to say :—

1. (*Set out the questions or matters in a succinct form.*)

Dated (*&c.: Conclude as in* Form 1078).

1147. Originating summons for determination of a question or matter arising under the trust of a deed or instrument (*e*). [Dan. Pr. 990.]

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*f*).)

In the Matter of the trusts of (*Describe the deed or instrument; as thus:* an indenture of settlement dated the —— day of ——, 18—, made between (*Set out the names of the parties to it*).

Between A. B. . . . Plaintiff,
and
C. D. . . . . Defendant.

Let the defendant C. D. (*State in what character he is sued; as thus:* the trustee [*or*, one of the trustees] of

Or, the *cestui que trust* [*or*, one of the *cestuis que trust*] under the trust of

Or, the trustee of the property of G. H., a bankrupt, one of the *cestuis que trust* under the trust of

the above-mentioned indenture of settlement [*or as may be*], attend at the Chambers of Mr. Justice —— (*see* Form 1077), at the Royal Courts of Justice, Strand, London, at the time specified in the margin [*or*, at the foot] hereof, upon the application of C. D., of (*Place of residence and occupation*), the—*or*, who claims to be interested in the relief sought as —(*State in what character the plaintiff sues; see the examples above given*), that the following questions or matters arising in the administration of the trust of the said indenture of settlement [*or as may be*] may be determined under the Rules of the Supreme Court, Order 55, rule 3, sub-section (*a*) [*or as may be*], and relief given in respect thereof, without an administration of the trust of the said indenture [*or as may be*], that is to say :—

1. (*Set out the questions or matters in a succinct form.*)

Dated (*&c.: Conclude as in* Form 1078).

(*e*) See R. S. C. Ord. LV. 3; and notes (*a*) and (*b*), *supra*.

(*f*) As to assigning to a particular Judge, see R. S. C. Ord. V. 9 (*b*).

1148.
Originating summons for administration of the personal, or real and personal, estate of a deceased person (*g*).
[Dan. Pr. 990.]

(*Title and reference to the record: see* Form 1146.)

Let the defendant E. F., the (*State in what character the defendant is sued: see the examples in* Form 1146) attend at the Chambers of Mr. Justice —— (*see* Form 1077), at the Royal Courts of Justice, Strand, London, at the time specified in the margin [*or*, at the foot] hereof, upon the application of C. D., of (*Place of residence and occupation*), the—*or*, who claims to be interested as—(*State in what character the plaintiff sues: see the examples in* Form 1146), for an order for the administration of the personal [*or*, real and personal] estate of the said A. B., with all necessary and proper directions.

Dated (*&c.: Conclude as in* Form 1078).

1149.
Originating summons for administration of the trust under a deed or instrument (*h*).
[Dan. Pr. 990.]

(*Title and reference to the record: see* Form 1147.)

Let the defendant E. F. (*State in what character the defendant is sued: see the examples in* Form 1147) attend at the Chambers of Mr. Justice —— (*see* Form 1077), at the Royal Courts of Justice, Strand, London, at the time specified in the margin [*or*, at the foot] hereof, upon the application of C. D., of (*Place of residence and occupation*), the—*or*, who claims to be interested as—(*State in what character plaintiff sues: see examples in* Form 1147), for an order for the administration of the trust of the said indenture of settlement [*or as may be*], with all necessary and proper directions.

Dated (*&c.: Conclude as in* Form 1078).

1150.
Affidavit in support of a summons for administration by a creditor (*i*).
[Dan. Pr. 993.]

Formal parts: see Form 6.

1. (*State the amount and nature of the debt, and any existing security for its payment; or negative the existence of any such security: as in* Forms 1179 *et seq.*)

2. *Prove that the defendant is the proper person to be sued; as thus:* The said A. B. died on or about the —— day of ——, 188—; and probate of his will has [*or*, letters of administration of his personal estate have] been granted by the Principal Registry [*or as may be*] of the Probate Division of this Court to the defendant [*or as may be*] (*j*).

3. (*Show means of knowledge.*)

(*g*) See R. S. C. Ord. LV. 4; and note (*a*), *supra*.

(*h*) *Ibid.*

(*i*) As to the evidence required to support a summons for administration, see R. S. C. Ord. LV. 7. Forms 1150—1153 can be readily adapted to the cases of other applicants under Ord. LV. 3 or 4.

(*j*) The fact that the defendant is the legal personal representative of the deceased person should be established by production of the probate or letters of administration, or by other primary evidence of the grant. For form of notice to the defendant to produce the probate or letters, see Form 1131.

1151.

The like by a specific, pecuniary, or residuary legatee, or an annuitant. [Dan. Pr. 993.]

Formal parts: see Form 6.

1. *State, succinctly, the nature of the bequest; as thus:* The above-named A. B., by his will dated the —— day of ——, 188—, bequeathed to me all his household furniture and effects.

Or, a legacy of £100, payable three months after his death.

Or, one-fifth of the residue of his personal estate and effects.

Or, an annuity of £20 during my life.

2. *Prove that the defendant is the proper person to be sued; as thus:* The said A. B. died on or about the —— day of ——, 188—, without having revoked or altered his said will; and probate of his said will has been granted by the Principal Registry [*or as may be*] of the Probate Division of this Court to the defendant E. F. [*or as may be*].

3. *Show that the bequest has not been satisfied; as thus:* The household furniture and effects bequeathed to me as aforesaid have not yet been delivered to me.

Or, The legacy of £100 bequeathed to me as aforesaid remains due to me from the said testator's estate.

Or, The share of residue bequeathed to me as aforesaid has not been accounted for or paid to me.

Or, I am now entitled to the said annuity of £20 bequeathed to me as aforesaid; but no provision to secure the due payment thereof has been made [*or as may be*].

4. (*Show means of knowledge.*)

1152.

Affidavit in support of a summons for administration by a next of kin. [Dan. Pr. 993.]

Formal parts: see Form 6.

State the death of the person whose estate is to be administered, and show that the applicant is one of his next of kin; as thus: 1. The above-named A. B. died on or about the —— day of ——, 188—, a bachelor, and intestate; and without leaving any father, mother, sister, or brother him surviving.

2. The said A. B. was the son of W. B., late of, *&c.* The said W. B. had two children only; that is to say: (1) the said intestate A. B.; and (2) my father R. B.

3. The said R. B. died on or about the —— day of ——, 188—. The said R. B. had three children only; that is to say: (1) my brother the defendant E. B.; (2) my sister Mary, now the wife of G. H., of, *&c.*; and (3) me the deponent.

4. As a child of the intestate's said brother R. B., I claim to be one of the next of kin of the said intestate A. B.; and, as such, to be entitled to a distributive share of his personal estate. Such share has not been paid or accounted for to me.

Show that the defendant is the proper person to be sued; as thus: 5. Letters of administration of the personal estate of the said A. B. have been granted by the Principal Registry [*or as may be*] of the Probate Division of this Court to the defendant E. B. [*or as may be*].

1153.
Affidavit in support of a summons for administration of a trust.
[Dan. Pr. 993.]

Formal parts: see Form 6.

State, succinctly, the nature of the applicant's interest under the will, and the persons to be sued; as thus: 1. The above-named A. B., by his will dated the —— day of ——, 188—, devised all his real estate to the defendant, E. F., upon trust to sell and convert the same into money, and invest such money as therein mentioned; and to pay the income to accrue from such investment unto the testator's wife, L. B., for her life; and after her death, to raise the sum of £1,000, out of the said trust estate, and pay the same to me, on my attainment of the age of twenty-one years; and the said testator appointed the defendant E. F. executor of his will.

2. The said testator died on the —— of ——, 188—, without having revoked or altered his said will; and probate of the said will was, on the —— day of ——, 188—, granted by the Principal Registry [*or as may be*] of the Probate Division of this Court to the defendant E. F.

3. The defendant E. F. accepted the trust reposed in him by the said will; and he converted the testator's real estate into money, and made certain investments out of the proceeds thereof.

4. The testator's widow, the said L. B., died on the —— day of ——, 188—; and I attained my age of twenty-one years on the —— day of ——, 188—.

5. I am now entitled to receive the said sum of £1,000; but the defendant E. F. refuses or neglects to pay the same to me.

6. (*Show means of knowledge.*)

Section III.—Proceedings under Judgments and Orders.

(*Dan. Pr.*, pp. 996—1111, cccxci.—cccxciii.)

(1.) *Service of Notice of the Judgment, and Conduct of Action or Proceedings.*

(*Dan. Pr.*, pp. 995—1004, cccxci.)

(A.) *Service of Notice of the Judgment* (*a*).

(*See* Forms 158—175.)

(B.) *Conduct of Action or Proceedings* (*b*).

1154.
Summons for conduct of action (*c*).
[Dan. Pr. 1003, 1004.]

Formal parts: see Form 43 *or* 1077.

on the part of

the defendant A. B.; *or*,

C. D., who is attending the proceedings herein; *or*,

E. F., of (*residence and addition*), who has been allowed [*or*, who

(*a*) As to service of notice of the judgment, see R. S. C. Ord. XVI. 40—44; LV. 9, 35, 36; Dan. Pr. 275—282, 996—1002; 1 Seton, 42, 64; 2 Seton, 858, 859, 1641, 1642.

(*b*) As to the conduct of proceedings generally, see Dan. Pr. 1002—1004; 2 Seton, 886.

(*c*) *Conduct of proceedings.*—For forms of order for conduct, see 2 Seton, 886,

claims to be] a creditor upon the estate of the testator G. H.; *or*,
E. F., of, *&c.*, who claims to be interested in the matters in question in this action as residuary [*or*, pecuniary—*or* specific] legatee under the will of the testator G. H.; *or*
E. F., of, *&c.*, who has been allowed [*or*, who claims to be] one of the next of kin of the intestate I. K.; *or*,
E. F., of, *&c.*, who, as executor of I. K., has been allowed [*or*, claims to be], *&c.*;
[*or as may be*];
that the future conduct of this action
Or, of the accounts and inquiries [*or*, of account No. 1, and inquiry No. 2—*or*, of the sale] directed by the judgment [*or*, order] dated the —— day of ——, 188—
[*or as may be*],
Or, that the carriage and execution of the judgment [*or*, order], dated the —— day of ——, 188—,
may be committed to the applicant.
If so: notwithstanding all proceedings [*or as may be*] in this action are stayed by an order dated the —— day of ——, 188—.

1155.

Summons by active plaintiffs for conduct of cause where co-plaintiff refuses to proceed (*d*). [Dan. Pr. 263, note (*c*).]

Formal parts: see Form 43 *or* 1077.
on the part of A. B., and C. D., two of the above-named plaintiffs, that the applicants may have the sole conduct of this cause.

1156.

Summons that accounts and inquiries may be prosecuted in district registry (*e*).

Formal parts: see Form 43 *or* 1077.
on the part of the plaintiff [*or as may be*], that the accounts and inquiries directed to be taken and made by the judgment [*or*, order] dated the —— day of ——, 188—, may be so taken and made in the office of or by the Registrar of the district registry at ——.

No. 1; 1643, No. 6. As to the conduct of concurrent actions for administration, see Dan. Pr. 1002, 1948—1954; 1 Seton, 325, 326. Where, in concurrent actions by creditors, the plaintiff in the first action was a partnership and not a separate creditor, this was held sufficient reason to deprive him of conduct: *In re McRae, Forster* v. *Davis, Norden* v. *McRae*, 25 Ch. D. 16: 32 W. R. 304. Where, in an action by trustees against beneficiaries, all parties except one were represented by the same solicitor, conduct was given to the defendant who was separately represented: *Allen* v. *Norris*, W. N. (1884), 118. As to conduct of orders made on summons under R. S. C. Ord. LV. 3, see R. S. C. Ord. LV. 9.

(*d*) For order in like case, see *Butlin* v. *Arnold*, V.-C. W. at Chambers, 4 April, 1864, Reg. Lib. A. 699; and see S. C. 1 H. & M. 715. The summons must be served on the co-plaintiff; but need not be served on the defendants: *Butlin* v. *Arnold*, 1 H. & M. 715.

(*e*) See the Sup. Ct. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 66; *Irlam* v. *Irlam*, 2 Ch. D. 608; *Re Smith, Hutchinson* v. *Ward*, 6 Ch. D. 692; *McDonald* v. *Foster*,

(2.) *Carrying in Judgment or Order.*

(*Dan. Pr.*, pp. 1004, 1005.)

1157. Certificate verifying copy of judgment or order for Chambers (*f*). [Dan. Pr. 1004.]

We [*or*, I] certify, that the above is a true copy of the original [*or*, of an office copy of the original] judgment [*or*, order], as passed and entered. Dated this —— day of ——, 188—.

(*Add name, &c., of solicitor or party leaving the copy.*)

1158. Note of the names of the solicitors concerned, to be left at Chambers (*g*). [Dan. Pr. 1005.]

(*Short title and reference to the record.*)

The names of the solicitors concerned, and for whom, in this action [*or*, matter] are as follows:

Names of Solicitors.	For whom concerned.
Messrs. A. & B.	Plaintiff [*or*, Petitioner].
Mr. C. D.	Defendant [*or*, Respondent] E. F.
Mr. G. H.	Defendant [*or*, Respondent] L. M.
Mr. N. O.	P. Q., having liberty to attend the proceedings.

NOTE.—The defendant R. S. appears in person.

The defendant T. U. has not appeared.

(*Name, &c., of solicitor or party leaving the note.*)

(3.) *Summons to Proceed.*

(*Dan. Pr.*, p. 1005.)

1159. Summons to proceed under a judgment or order (*h*). [Dan. Pr. 1005.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff,

Or, defendant A. B.,

Or, of the petitioner [*or*, respondent] named in the order, dated the —— day of ——, 188—,

Or, of A. B., who, by an order dated the —— day of ——, 188—, has liberty to attend the proceedings,

Or, of A. B., to whom, by an order dated the —— day of ——,

6 Ch. D. 193; *Sykes* v. *Schofield*, 14 Ch. D. 629: 29 W. R. 68; *In re Judkins*, W. N. (1880), 198. As a rule the judgment or order will contain the direction for prosecution of the accounts and inquiries in the District Registry. As to proceedings generally in a District Registry, see R. S. C. Ord. XXXV.

(*f*) See R. S. C. Ord. LV. 28. The judgment or order should be brought into Chambers by the party prosecuting within *ten* days after it has been passed and entered, otherwise any other party may bring it in, and have the prosecution of the judgment or order: Ord. LV. 32. The copy judgment must be written on foolscap paper bookwise: Ord. LXVI. 2.

(*g*) See R. S. C. Ord. LV. 30.

(*h*) *Ibid.*, 32, 33.

188—, the future conduct of this cause has been committed; *or as may be*,

to proceed with the accounts and inquiries.

Or, with the sale

Or, with the apportionment

Or, to settle the draft of the conveyance

Or, to settle the draft of the mortgage

Or, to settle the draft of the lease; [*or as may be*],

directed by the judgment [*or*, order], dated the —— day of ——, 188—.

(4.) *Directions as to Prosecution* (*i*).

(*i*) *Directions as to Prosecution of Judgment.—Summary of Material Provisions of R. S. C.* 1883.

ORDER.

Upon return of the summons to proceed, the Judge, if satisfied that all necessary parties have been served, will give directions as to the manner in which the accounts and inquiries are to be prosecuted, the evidence to be adduced, the parties to attend, and the time within which each proceeding is to be taken . LV. 33.

Dispensing with service of notice of judgment.—The Judge may dispense with service of notice of the judgment upon absent parties, or may order substituted service or notice by advertisement or otherwise . . . . . ,, 35.

Proceedings to be taken before service.—If, on the hearing of the summons to proceed, it appears that all necessary parties are not before the Court, directions may be given for advertisement for creditors, and for leaving the accounts in Chambers, but the adjudication on creditors' claims and the accounts must not be proceeded with, and no other proceedings may be taken, except for the purpose of ascertaining the parties to be served, until all necessary parties have been served, and are bound, or service has been dispensed with, and until directions have been given as to the parties to attend on the proceedings. ,, 36.

1160.

Certificate verifying copy for Chambers of certificate of entry of memorandum of service (*j*). [Dan. Pr. 1006.]

(*Short title and reference to the record.*)

We [*or*, I] certify, that this is a true copy of the original certificate, as sealed. Dated this —— day of ——, 188—.

(*Name, &c., of solicitor or party leaving the copy.*)

1161.

Certificate of entry of appearance by party served with notice of judgment (*k*). [Dan. Pr. 1006, note (*h*), cccxci.]

(*Same as* Form 170).

(*j*) See R. S. C. Ord. LV. 31. For the practice as to service, and dispensing with service of notice of the judgment, see Dan. Pr. 996—1002; and for the forms incident thereto, see Forms 158—175.

(*k*) See R. S. C. Ord. LV. 31.

(5.) *Parties entitled to attend* (*l*).

(*Dan. Pr.*, pp. 1006—1010, cccxci.)

(*l*) *Attendance of Parties.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Classification.—Where it appears to the Judge that the interests of the parties can be classified, he may require each or any class to be represented by the same solicitor, and may direct what parties may attend all or any part of the proceedings; and where the parties constituting any class cannot agree upon a solicitor, he may nominate a solicitor to represent them for the purpose of the proceedings before him. A party appearing separately will have to bear the costs of his own solicitor, and all such further costs as are occasioned by his being separately represented	LV. 40.
Judge may require a distinct solicitor for the parties.—Where the same solicitor is employed for two or more parties the Judge may require any of them to be represented by a distinct solicitor	,, 41.
Attendance of parties not directed to attend.—Any parties, other than those directed to attend, may attend at their own expense, and upon paying the costs, if any, occasioned by such attendance, or may apply by summons for liberty to attend at the expense of the estate, or to have the conduct of the action, either in addition to or in substitution for any of the parties who have been directed to attend	,, 42.
Order as to parties attending.—An order must be drawn up on a summons taken out by the party having conduct, stating the parties who have been directed to attend, and such of them (if any) as have elected to attend at their own expense; and such order must be recited in the Chief Clerk's certificate . .	,, 43.

1162. Summons by a creditor, or other person interested, for leave to attend the proceedings (*m*). [Dan. Pr. 1009.]

Formal parts: see Form 43, *or* 1077.

on the part of A. B., of (*residence and addition*): whose claim to be a creditor upon the estate of C. D., the testator [*or*, intestate], in the judgment [*or*, order], dated the —— day of ——, 188—, named, has been allowed by the Chief Clerk:

Or, who claims to be interested in the matters in question in this action, as an annuitant under the will of C. D., the testator in the judgment, *&c.*, named:

Or, the assignee of the interest of the defendant E. F., in the residuary estate of C. D., the testator in the judgment, *&c.*, named—*or as may be*:

that the applicant may be at liberty to attend the proceedings under the (said) judgment [*or*, order], dated, *&c.*, at the expense of the estate.

Or, under the account numbered 5—*or*, inquiry numbered 6—directed by the judgment, *&c.*

And that the plaintiff [*or other person having the carriage of the proceedings*] may be directed to give notice, from time to time, to the

(*m*) See R. S. C. Ord. LV. 42; 2 Seton, 830. For form of order, see 2 Seton, 1642, No. 4; and see *Ibid.*, 830, 886; *Sharp* v. *Lush*, 10 Ch. D. 468; *Day* v. *Batty*, 21 Ch. D. 830. For form of order giving leave to creditors to attend proceedings on special terms, see *Norris* v. *Sadleir*, M. R. at Chambers, 14 Jan. 1864, Reg. Lib. B. 191.

applicant [*or*, to Mr. G. H., of, *&c.*, the applicant's solicitor] of all proceedings to be had and taken under the said judgment [*or*, order].

Or, under the said account [*or*, inquiry],

and otherwise in and about this action [*or as may be*], until further order.

1163.

Summons for classification of parties, and nomination of solicitors (*n*). [Dan. Pr. 1009, cccxci.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that for the purposes of the future proceedings in this action before the Judge in Chambers under the judgment [*or*, order], dated the —— day of ——, 188—, Messrs. S. and J., so long as they shall be the solicitors on the record for the plaintiff, be nominated to represent A. B. and C. D., parties attending the proceedings; and that Messrs. B. and T., so long as they shall be the solicitors on the record for the defendant, E. F., be nominated the solicitors to represent G. H. and I. K., parties, *&c.*

(6.) *Additional Accounts or Inquiries* (*o*).

(*Dan. Pr.*, pp. 1010—1012, cccxci.)

1164.

Summons for additional accounts or inquiries (*p*). [Dan. Pr. 1011.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be: see* Form 1159], that in addition to the accounts (and inquiries) directed by the judgment [*or*, order], dated the —— day of ——, 188—, the following accounts (and inquiries) may be directed to be taken (and made); that is to say: (*Set them out in numbered paragraphs, in continuation of the numbers in the original judgment or order, as in the following examples:*

11. An account of the rents and profits of the testator's real estate received by the defendant C. D., or by any person or persons by his order, or for his use.

12. An inquiry whether the children of the testator, or any of them, have created any and what incumbrances upon their respective shares of the testator's real and personal estate.)

(*n*) See R. S. C. Ord. LV. 40, 43; and note (*l*), *supra*. This form of summons was settled by Jessel, M. R. If on the hearing of the summons any of the parties should elect to attend at their own expense, the order to be made will provide that all costs occasioned by such attendance shall be borne by them. For forms of order, nominating solicitors to represent the parties, see 1 Seton, 636, No. 3; 2 Seton, 1643, No. 5. As to appointing the official solicitor to represent parties, see *In re Docwra*, W. N. (1884), 232.

(*o*) See R. S. C. Ord. XXXIII. 2. As to adding to judgment on application of a party served with notice of judgment, see R. S. C. Ord. XVI. 40; 1 Seton, 64; 2 Seton, 780, 855, 858. As to what accounts and inquiries may be added, see Dan. Pr. 1011; Ann. Pr. 350, 351. As to adding a direction, charging a defendant on the footing of wilful default, see Dan. Pr. 1011; *Partington* v. *Reynolds*, 4 Drew. 253; *Barber* v. *Mackrell*, 12 Ch. D. 534; *Mayer* v. *Murray*, 8 Ch. D. 424; *Re Symons, Luke* v. *Tonkin*, 21 Ch. D. 757; *Laming* v. *Gee*, 10 Ch. D. 715.

(*p*) For forms of orders, see 2 Seton, 1548, Nos. 1—3.

(7.) (8.) *Particular Proceedings.—Inquiries.—Claims* (*q*).

(*Dan. Pr.*, pp. 1012—1036, cccxci—cccxcii.)

(*q*) *Claims.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Claimants not coming in excluded.—Where a judgment or order directs an account of debts, claims, or liabilities, or an inquiry for heirs, next-of-kin, or other unascertained persons, all persons who do not come in and prove within the time fixed by advertisement will be excluded from the benefit of the judgment or order .	LV. 44.
Advertisements.—A peremptory advertisement, and only one, will be issued, unless further advertisements may be thought necessary	,, 45.
The advertisement must be prepared by the party prosecuting the judgment, submitted to the Chief Clerk, and signed by him	,, 46.
Advertisements must fix a time within which each claimant, not being a creditor, is to come in and prove, and within which each *creditor* is to send to the legal personal representative of the deceased, or to such other party as the Judge shall direct, or to his solicitor, his name and address, full particulars of his claim, a statement of his account, and the nature of the security (if any) held by him. An advertisement must be in the prescribed form (App. L. Nos. 2 and 3)	,, 47.
Claimants' affidavits.—Office copies must not be taken by the claimants, but by the person examining the claims . . .	,, 48.
Creditors.—Need not make affidavits, nor attend (except to produce securities), unless served with a notice requiring them to do so	,, 49.
Production.—A creditor must produce his securities at the time fixed by advertisement, and, if required by notice in writing, all other deeds and documents necessary to substantiate his claim at such time as is specified in the notice. In case of non-compliance he will be allowed no costs of proof . . .	,, 50, 51.
Examination and verification of claims.—The legal personal representative, or such other party as the Judge shall direct, must examine all claims sent in pursuant to advertisement, and ascertain to which of such claims the estate is justly liable, and must file an affidavit at least *seven clear days* prior to adjudication, either alone, or jointly with his solicitor or other competent person, verifying a list of the claims; the affidavit and list must be in the prescribed form (App. L. Nos. 5, 6) . .	,, 52.
Postponement of affidavit.—The making of the affidavit may be postponed until after the day for adjudication, if so directed	,, 53.
Adjournment of adjudication.—Where on the day appointed for hearing the claims any of them remain undisposed of, an adjournment day must be fixed, and a time may be named within which the evidence on both sides is to be closed, and directions may be given as to the mode in which evidence is to be adduced	,, 54.
Evidence on claims.—Claims may be allowed without proof, or proof may be required	,, 55.
Notice to creditors.—Notice must be given to creditors, whose claims are allowed without proof, of such allowance (App. L. No. 7), and to creditors required to prove their claims, to attend and prove by a time to be named in such notice, not being less than *seven days* after such notice (App. L. No. 8). In default of attendance the claims will be disallowed . . .	,, 56.
Claims after expiration of time fixed.—No claims will be received after the time fixed by advertisement, except by special leave, to be obtained on summons	,, 57.
Costs of creditor.—A creditor who has established his debt will be allowed his costs of proof, which will be added to the debt	,, 58.

	Order.
List of claims allowed.—Must, when required, be made out and left in Chambers	LV. 59.
Payment to creditors out of funds in Court.—Notice must be given to creditors that their cheques are ready (App. L. No. 9), and the judgment or order and other papers necessary to enable the cheques to be received must be produced	,, 60.
Service of notices.—Notices required to be given to claimants may be given by post prepaid	,, 61.
Interest on debts.—Interest will be computed on debts carrying interest after the rate they respectively carry, and on debts not carrying interest after the rate of four per cent. per annum from the date of the judgment or order: to be allowed out of any assets which may remain after satisfying the costs, the debts established, and interest of such debts as by law carry interest	,, 62, 63.
Attendance on claims.—Except by special leave, only the executor or administrator may attend either in Court or Chambers on the claim of any person not a party to the cause or matter against the estate in respect of any debt or liability .	XVI. 47.

1165.

Advertisement for claimants (other than creditors of a deceased person) to come in and prove their claims (*r*). [Dan. Pr. 1013.]

Pursuant to a judgment [*or*, an order] of the Chancery Division of the High Court of Justice, made in (*Set out the short title of the matter or cause, and the reference to the record, if any; as thus:*

the matter of the estate of A. B., deceased, and in an action Jones against Styles (188—, J. No. 5),

State the special object of the advertisement; as thus:

the persons claiming to be the heir at law of A. B., late of (*residence and addition*), living at the time of the death of the said A. B., on the —— day of ——, 188—,

Or, the persons claiming to be the heir according to the custom of the manor of Talleshunt, in the county of Sussex, of A. B., late of (*&c.: as above*),

Or, the persons claiming to be next of kin, according to the statutes for the distribution of intestates' estates, of A. B., late of, *&c.*, who died in or about the month of ——, 188—, living at the time of his death, or to be the legal personal representatives of such of the said next of kin as are now dead,

Or, the persons claiming to be interested under a certain indenture, dated the —— day of ——, 188—, executed by A. B., then of, *&c.*, for the benefit of his creditors,

Or, the persons claiming to be entitled to the legacy of £1,000 bequeathed by the will of the testator, Isaac Brown, late of Bath, in the county of Somerset, gentleman, to the child or children of his nephew, William Saunders,

Or, the charitable institutions and persons claiming to be entitled to the sum of £500 consolidated £3 per cent. annuities in Court, to

(*r*) The form here set out is adapted from that given in R. S. C. Ord. LV. 47; App. L., No. 2. A fee of 10*s.* is payable on the advertisement: by a stamp impressed thereon; and a fee of £1 is payable on an inquiry to ascertain the heir and (or) next of kin of a deceased person whose estate is being administered, or in respect of whose estate an application is made under Ord. LV. 3 (see Forms 1146—7): Ord. as to S. C. Fees, 1884, Sched. Nos. 76, 126; Ord. as to Fees, &c., July, 1884, p. 12.

Form 1167.

(Short title and reference to the record.)

PEDIGREE.

EVIDENCE.

Affidavit of Lucy Jones, filed (*date of filing*).

SARAH SMITH.

Married, 1 Jan. 1800.
L. J. 1.

Buried, 11 Nov. 1810.
L. J. 2.

JOHN JONES.

Married:—
(1) 1 Jan. 1800.
L. J. 1.
(2) June, 1812.
L. J. 3.

Died, 3 Nov. 1842.
L. J. 7.

MARY JOHNSON.

Married:—
(1) 2 Aug. 1802.
L. J. 4.
(2) June, 1812.
L. J. 3.

Died, 1 Dec. 1840.
L. J. 6.

CHARLES BROWN.

Married, 2 Aug. 1802.
L. J. 4.

Buried, 10 Jan. 1808.
L. J. 5.

SARAH JONES.

Baptised, 2 Feb. 1802.
L. J. 8.

Living

N.K. (half blood, *ex parte paterna*).

JOHN JAMES JONES.

Baptised, 1 Oct. 1804.
L. J. 9.

Married, 10 May, 1830.
L. J. 10.

Died, 9 Aug. 1840.
L. J. 11.

ELIZA WILLIAMS.

Married, 10 May, 1830.
L. J. 10.

Buried, 14 Jan. 1835.
L. J. 12.

MARIA JONES.

Baptised, 4 July, 1813.
L. J. 13.

Living

N.K. (whole blood).

MARY TAYLOR.

Married, 1 June, 1838.
L. J. 15.

Died, 10 Feb. 1844.
L. J. 16.

HENRY JONES.

Baptised, 12 Feb. 1817.
L. J. 14.

Married:—
(1) 1 June, 1838.
L. J. 15.
(2) 5 Aug. 1848.
L. J. 17.

Died, 31 Dec. 1850.
L. J. 18.

INTESTATE.

LUCY WILLIAMS.

Married, 5 Aug. 1848.
L. J. 17.

Living.

WALTER BROWN.

Baptised, 1 June, 1804.
L. J. 19.

Died, between 1824 and 1831.
L. J. 20.

Presumed to be dead.

ROBERT BROWN.

Baptised, 1 Mar. 1806.
L. J. 21.

Living.

N.K. (half blood, *ex parte materna*).

HENRY JAMES JONES.

Baptised, 24 July, 1831.
L. J. 22.

Living.

Heir-at-law.

N.K. (half blood, *ex parte paterna*).

HENRY JOHN JONES.

Born, 6 Dec. 1839.
L. J. 23.

Died, 10 June, 1840.
L. J. 24.

LUCY JONES.

Born, 1 July, 1849.

Died, 9 Jan. 1850.
L. J. 25.

To face page 469.]

the credit of this matter [*or*, cause] to an account, entitled, "Legacy bequeathed to the Poor Widows' Society, near London,"

Or, the persons claiming to be entitled to any mortgage, charge, or other incumbrance upon or affecting the legacy of £1,000, bequeathed to John Jones, now or late of (*residence and addition*), by the will of his father, Ephraim Jones, late of (*residence and addition*), who died on or about the —— day of ——, 188—,

are by their solicitors, on or before the —— day of ——, 188—, to come in and prove their claims, at the Chambers of Mr. Justice ——, at the Royal Courts of Justice, or, in default thereof, they will be peremptorily excluded (*s*) from the benefit of the said judgment [*or*, order].

(Monday), the —— day of ——, 188—, at —— of the clock in the —— noon, at the said Chambers, is appointed for hearing and adjudicating upon the claims.

Dated this —— day of ——, 188—.

R. M., Chief Clerk.

Let this advertisement be inserted in the next London Gazette (*t*)

R. M.

1166.

Notice of having entered a claim (*u*). [Dan. Pr. 1014.

Formal parts: see Form 37.

Take notice, that I have this day entered, in the "Claims Book" at the Chambers of his lordship, Mr. Justice ——, a claim, numbered ——, on behalf of C. D., of (*residence and addition*), to be (*State what; as thus:*

the heir-at-law of the testator A. B.

Or, one of the next of kin of the intestate A. B.).

1167.

Pedigree in proof of heirship and kindred (*v*).

(*See* Form *annexed.*)

(*s*) See R. S. C. Ord. LV. 44; and note (*q*), *supra.*

(*t*) See R. S. C. Ord. LV. 46. The signature of the Chief Clerk is only required to the copy of the advertisement for the Gazette. The printers of the other newspapers will insert the advertisement on copies being left with them. Such copies should include copies of the signature of the Chief Clerk; and the name and place of business, and address for service, if any, of the solicitor or party inserting the advertisement, should be added thereto.

(*u*) There appears to be no provision in R. S. C. 1883, similar to that in Cons. Ord. XXXV. 38, under which claimants other than creditors were required to enter their claims in the "Claims Book," and give notice to the solicitors in the cause. But the Book is still used in Chambers. And it seems convenient that the practice of giving notice should be still adhered to.

(*v*) For affidavit in proof of this pedigree, see Form 1168, and notes thereto. Care should be taken, in preparing the pedigree, that the statements of facts therein agree with the evidence in support of it. Dates of birth or death are often marked on the pedigree, whilst the affidavits prove the dates of baptism or burial. This frequently occasions loss of time.

1163.
Affidavit in answer to inquiry as to heirship and kindred (*w*).

(*Title and reference to the record.*)

I, Lucy Jones, of ——, in the county of ——, widow, make oath and say as follows :

1. *Connexion of deponent with the family.*—I am the widow of Henry Jones, late of (*Place of abode and description : and, if material, add :* and formerly of ——, in the county of ——), deceased, the intestate named in the judgment [*or*, order] in this action [*or*, matter], dated the ——, 188—.

2. *General means of knowledge.*—I had many conversations with my said late husband respecting his family. His parents and my parents were on terms of intimacy, and one of my sisters married my husband's half-brother. From statements made to me by my husband, and from information acquired by me through my intimacy with his family, and from an inspection of the certified extracts from the registers of births, baptisms, marriages, deaths, and burials hereinafter referred to and exhibited to this affidavit (and which extracts are hereinafter for convenience termed by me certificates of birth, baptism, marriage, death and burial, respectively), and from perusal of the entries in the family Bible, hereinafter referred to, I am enabled to depose to the facts hereinafter set forth (*x*).

(*w*) This affidavit is supposed to prove the specimen pedigree which is given in Form 1167 ; and to be made by Lucy, the second wife of the intestate Henry Jones. As to the order in which the facts should be stated, the most convenient plan is to clear off the pedigree in lines ; that is, to prove the births, marriages, and deaths without issue (if such be the case) of all the persons in the same line, before proving the births, &c., of the children of any of those persons. In intricate pedigrees, and where there are more than three generations, a non-compliance with this practice often leads to confusion. The affidavit should in every case contain sufficient information to enable ready reference to be made to the various sources from which the certificates exhibited have been obtained. In the case of General Registry certificates it is only necessary to state in the affidavit the date of the occurrence, the nature of the certificate, the names of the persons, and the place or district in which the occurrence took place ; in the case of parochial certificates the name of the church, chapel, or cemetery should be given ; and in the case of non-parochial certificates or extracts from returns from foreign countries, or at the India or Colonial Offices, or the like, the place where the original register or return is deposited should be stated.

(*x*) Except where the fact of the birth of a child is proved by the evidence of the mother, or, if he were in the house at the time of birth, of the father, every statement as to the birth, baptism, marriage, or death of a person should, where practicable, be corroborated by a certified extract from the Register recording the fact ; or the reason for not exhibiting such extract should be explained, and evidence of the searches and inquiries made should be given.

Admissibility of certain extracts in evidence.—As to this, see 14 & 15 Vict. c. 99, s. 14. In order to come within this section the extract must either be proved to be an examined copy, or be certified as correct by the proper officer ; and in the latter case it must appear on the face of the extract that the person certifying is such proper officer. With regard to parochial certificates the signature and description should be that of the rector, vicar, curate, or minister in charge ; the signature of a parish clerk is insufficient, whatever may be the description he gives of his official character.

3. *Intestate's father.*—My husband was a son of John Jones, of (*Place of abode and occupation*), deceased, by his second wife.

4. *Marriage of intestate's father.*—The said John Jones was married twice only, namely (1), on the 1st January, 1800, to Sarah Smith, at the parish church of ——, in the county of —— ; and (2) in the month of June, 1812, to Mary Brown, widow, formerly Mary Johnson.

5. The said John Jones and Sarah Smith are the same persons as "John Jones, bachelor," and "Sarah Smith, spinster," named in the certificate of marriage, now produced to me, marked L. J. 1 (*y*).

6. *Death of father's first wife.*—The said Sarah, the first wife of the said John Jones, died in the month of November, 1810, and was buried on the 11th November, 1810, at ——, in the county of ——. She is the same person as "Sarah Jones," named in the certificate of burial now produced to me, marked L. J. 2.

7. *Proof of marriage of intestate's mother by repute.*—At the time of his second marriage the said John Jones was staying at Edinburgh, and he was married there at a private house, but the marriage was to the best of my belief never registered. Diligent search has been made for a register of the said marriage at (*State where*), but without success. The fact of the marriage was, however, recorded by the said John Jones on a fly-leaf of his family Bible, which Bible is now produced to me, marked L. J. 3. I know the handwriting of the said John Jones, having often seen him write, and I say that the words "John Jones and Mary Brown, married June, 1812," written on the fly-leaf of the said Bible, are in his handwriting. After his second marriage the said John Jones and his second wife came to reside in ——, near which place my parents were then living. The said Mary Jones was introduced to the members of the family of the said John Jones, and was received by them as his wife, and the fact of his second marriage having taken place has never to my knowledge been questioned (*z*).

8. *Prior marriage of intestate's mother.*—The said Mary Brown at the time of her marriage to the said John Jones was a widow. She was only once married prior to her marriage to the said John Jones, namely, to Charles Brown on the 2nd August, 1802, at the parish church of ——, in the county of ——. The marriage certificate now produced to me, marked L. J. 4, refers to the marriage of the said Charles Brown and Mary Brown, and they are the same persons as "Charles Brown, bachelor," and "Mary Johnson, spinster," named therein.

(*y*) Where there are numerous exhibits they should be identified by the initial letters of the deponent's name, followed by a number, as in the text. If the same exhibit is used in connexion with another affidavit, the exhibit mark first used ought to be repeated. It is a common, but useless, practice to employ a fresh exhibit mark in each case.

(*z*) In cases where the Court is asked to presume a marriage, and no certificate can be produced, evidence of repute can be given. As to the nature of the evidence required in such a case, see *Lyle* v. *Ellwood*, L. R. 19 Eq. 98, and the cases there cited. The baptismal certificates of children of persons alleged to have intermarried are good evidence of repute of marriage.

9. *Death of her first husband.*—The said Charles Brown died in the month of January, 1808, and was buried on the 10th of that month at ——, in the county of ——. He is the same person as "Charles Brown," named in the burial certificate now produced to me marked L. J. 5.

10. *Her death.*—The said Mary Jones died on the 1st December, 1840, at ——, in the county of ——. She is the same person as "Mary Jones" named in the certificate of death now produced to me, marked L. J. 6.

11. *Death of intestate's father.*—The said John Jones died on the 3rd November, 1842, at ——, in the county of ——. He is the same person as "John Jones" named in the certificate of death now produced to me, marked L. J. 7.

12. *Issue of intestate's father by first marriage.*—The said John Jones had by his first wife, the said Sarah Smith, two children only, namely (1), Sarah Jones the younger, and (2), John James Jones.

13. The said Sarah Jones, the younger, was born in the month of January, 1802, and was baptized on the 2nd February, 1802, at the parish church of ——, in the county of ——. She is the same person as "Sarah, daughter of John and Sarah Jones," named in the certificate of baptism now produced to me, marked L. J. 8. She is still living.

14. The said John James Jones was born in the month of September, 1804, and was baptized on the 1st October, 1804, at ——, in the county of ——. He is the same person as "John James, son of John and Sarah Jones," named in the certificate of baptism now produced to me, marked L. J. 9.

15. The said John James Jones was married once only, namely, on the 10th May, 1830, to my sister, Eliza Williams, at the parish church of ——. He and she are the same persons as "John James Jones, bachelor," and "Eliza Williams, spinster," respectively named in the certificate of marriage now produced to me, marked L. J. 10.

16. The said John James Jones died on the 9th August, 1840, at ——, in the county of ——. He is the same person as "John James Jones," named in the certificate of death now produced to me, marked L. J. 11.

17. *Burial in a dissenting chapel; non-parochial registers* (*a*).—The said Eliza, the wife of the said John James Jones, died in the month of January, 1835, and was buried on the 14th of that month in the burial ground attached to the Wesleyan Chapel, at ——, in the county ——.

(*a*) *Non-parochial certificates.*—By 3 & 4 Vict. c. 92, provision is made for deposit with the Registrar-General of certain non-parochial registers. Under the provisions of this Act over 7000 books containing registers of births, baptisms, marriages, deaths, and burials of persons of various religious communities, both in England and abroad, have been deposited at the General Registry Office, where a list of them can be seen, the originals inspected, and certified extracts obtained. If the register is so deposited the certificate of the Registrar-General is evidence, without any examination of the original register, or proof of custody: if it is not so deposited, the copy extract from the register must be proved to be correctly made, and the custody of the original shown.

She is the same person as "Eliza Jones," named in the certificate of burial now produced to me, marked L. J. 12. Such last-mentioned certificate of burial is a true copy of so much of the register of burials kept at the said chapel as relates to and records the fact of the said burial, as I know from having myself compared the said certificate of burial with the original entry in the said register.

18. *Issue of intestate's father by second marriage.*—The said John Jones, the father of the intestate, had by his second wife the said Mary Jones, formerly Mary Brown, two children only, namely (1), Maria Jones, and (2), my late husband Henry Jones, the intestate.

19. The said Maria Jones was born in the month of June, 1813, and was baptized on the 4th July, 1813, at the ——, in the county of ——. She is the same person as "Maria, daughter of John and Mary Jones," named in the certificate of baptism now produced to me, marked L. J. 13. She is still living. My said husband, the intestate, Henry Jones, was born in the month of January, 1817, and baptized on the 12th February, 1817, at the parish church of ——, in the county of ——. He is the same person as "Henry, son of John and Mary Jones," named in the baptismal certificate now produced to me, marked L. J. 14.

20. *Marriages of intestate.*—My late husband, the said Henry Jones, was married twice only, namely (1), to Mary Taylor, and (2), to myself. He was married to the said Mary Taylor on the 1st June, 1838, at ——, in the county of ——. He and she are the same persons as "Henry Jones, bachelor," and "Mary Taylor, spinster," named in the certificate of marriage now produced to me, marked L. J. 15.

21. *Death of first wife in France; extract from return.*—The said Mary, the first wife of the said Henry Jones, died on the 10th February, 1844, at Paris, in the then Kingdom of France, and is the same person as "Mary Jones," named in the exhibit now produced to me, marked L. J. 16, being a certified extract from the returns made by the said Kingdom to the British Government, of British subjects who have died in France, and now deposited at the General Registry Office.

22. *Intestate's second marriage.*—I was married to the said Henry Jones on the 5th August, 1848, at the parish church of ——, in the county of ——. He and I are the same persons as "Henry Jones, widower," and "Lucy Williams, spinster," named in the certificate of marriage now produced to me, marked L. J. 17.

23. *Marriage settlement* (*b*).—No settlement or agreement for a settlement was executed before or upon, or in contemplation of my said marriage, or has been executed since. (*If there was a settlement add*: save and except an indenture of settlement dated the ——, 18—, and made between the said Henry Jones of the first part, myself, by my then name of Lucy Williams, of the second part, and C. D. and E. F. of the third part. The said settlement is now produced to me, marked L. J. 17a. The said C. D. and E. F. are the present trustees of the

(*b*) The deponent being the widow of the intestate would be entitled to share in distribution, and would be required to make an affidavit of settlement. This paragraph is added to save the expense of another affidavit.

said settlement—*or if there are new trustees say:* G. H. of ——, and M. N. of ——, are the present trustees of the said settlement.)

24. *Death of intestate.*—The said Henry Jones died on the 31st December, 1850, at ——, in the county of ——. He is the same person as "Henry Jones," named in the certificate of death now produced to me, marked L. J. 18. The said Henry Jones died intestate.

25. *Issue of first marriage of intestate's mother.*—There was issue of the marriage of the said Mary, the second wife of the said John Jones, with her first husband, the said Charles Brown, two children only, namely (1), Walter Brown, and (2), Robert Brown.

26. The said Walter Brown was born in the month of May, 1804, and was baptized on the 1st June, 1804, at the parish church of ——, in the county of ——. He is the same person as "Walter son of Charles and Mary Brown," referred to in the certificate of baptism now produced to me, marked L. J. 19.

27. *Presumption of death.*—The said Walter Brown, when he was about eighteen years of age, emigrated with an uncle to America, and for about two years after he left this country he was in the habit of writing to his mother letters at intervals of three or four months, referring to his prospects and to family matters. He was always on affectionate terms with his parents and younger brother, and he did not emigrate in consequence of any dispute with them. About two years after the said Walter Brown emigrated, that is to say about the year 1824, his mother ceased to receive letters from him. She thereupon wrote to his uncle with whom he had emigrated, and in reply received a letter stating that the said Walter Brown had, about eighteen months after his arrival in America, left the town of ——, being the place in which his said uncle lived, and had not been heard of since. I believe that all possible inquiries were made at the time as to the said Walter Brown, but that neither his mother nor his said uncle ever heard of him again, and that no tidings of him have been since received by any member of his family. At the time he left —— aforesaid the said Walter Brown had not been married. I believe that he long since died without ever having been married. The above statements are founded upon information given to me by the said Mary Jones, and the said Robert Brown her surviving son by her first marriage. The letter now produced to me, marked L. J. 20, is in the handwriting of the said Mary Jones, and refers to the fact of the said Walter Brown not having been heard of for many years.

28. The said Robert Brown, the second son of the said Mary Jones by her first husband, was born in the month of January, 1806, and was baptized at the chapel of ——, in the county of ——, on the 1st day of March, 1806. He is the same person as "Robert son of Charles and Mary Brown" named in the baptismal certificate now produced to me, marked L. J. 21. The registers of the said chapel are now deposited at the General Registry Office, London (*c*). The said Robert Brown is now living.

(*c*) Extracts from the registers of a dissenting chapel are not strictly admissible,

29. *Issue of intestate's half brother.*—There was issue of the marriage of the said John James Jones with my sister Eliza Williams one child only, namely, Henry James Jones, who was born in the month of July, 1831, and was baptized on the 24th of the same month, at the parish church of ——, in the county of ——. The said Henry James Jones is the same person as "Henry James son of John James Jones and Eliza Jones" named in the certificate of baptism now produced to me, marked L. J. 22 ; and he is still living.

30. *Issue of intestate.*—There was issue of the said first marriage of the said Henry Jones, the intestate, one child only, namely, Henry John Jones, who was born on the 6th December, 1839. He is the same person as "Henry John son of Henry and Mary Jones" named in the certificate of birth now produced to me, marked L. J. 23.

31. The said Henry John Jones died on the 10th June, 1840, at ——, in the county of ——. He is the same person as Henry John Jones named in the certificate of death now produced to me, marked L. J. 24.

32. I had by the said Henry Jones one child only, namely, Lucy Jones the younger, who was born on the 1st July, 1849 (*d*).

33. The said Lucy Jones the younger died in my presence on the 9th January, 1850, at ——, in the county of ——. She is the same person as "Lucy Jones" named in the certificate of death now produced to me, marked L. J. 25.

Sworn (*&c. : see* Form 9).

1169. List of certificates exhibited to an affidavit in answer to inquiry as to kindred (*e*).

Mark on Exhibit.	Place.	Nature of Certificate.	Name as in Certificate.
L. J. 8.	Edgbaston.	Baptism.	Sarah Jones.
&c. &c.			

1170. Advertisement for the creditors of a deceased person to come in (*f*). [Dan. Pr. 1014—1016.]

Pursuant to a judgment [*or*, an order] of the Chancery Division of the High Court of Justice, made in (*Set out the short title of the matter or action ; as thus :*

unless the register has been deposited with the Registrar-General under 3 & 4 Vict. c. 92, and 21 & 22 Vict. c. 25 : see Taylor on Evidence, 7th ed., p. 1327, and cases there cited.

(*d*) Where the fact of the birth of a child is proved by the oath of the mother : or of the father if in the house at the time of birth : no certificate either of birth or baptism is required.

(*e*) Where the certificates are numerous, it is the practice in some Chambers to require the solicitor who has conduct of the class inquiries to leave a list in the form given in the text. Such a list is useful for reference, even when not required by the Judge.

(*f*) See R. S. C. Ord. LV. 47 ; App. L., No. 3 ; and note (*q*), *supra*. As to the Court fee, see Form 1165, n. (*r*). As to proceedings relating to the establishing and

the matter of the estate of A. B., and in an action S. against P. (188—, B. No. 10),

the creditors of A. B., late of (*residence and addition; as thus:*

No. 6, West Terrace, Camberwell, in the county of Surrey, gentleman):

who died in or about the month of ——, 188— : are, on or before the —— day of ——, 188— (*g*), to send, by post, prepaid, to Mr. E. F., of (*place of business*),

Or, to Mr. E. F., of, *&c.*, a member of the firm of F. & G., of the same place (*h*),

the solicitor [*or*, solicitors] of the defendant C. D., the executor [*or*, administrator] of the deceased [*or as may be directed*], their christian and surnames, addresses, and descriptions, the full particulars of their claims, a statement of their accounts, and the nature of the securities (if any) held by them; or, in default thereof, they will be peremptorily excluded (*i*) from the benefit of the said judgment [*or*, order].

Every creditor holding any security is to produce the same before Mr. Justice ——, at his Chambers, the Royal Courts of Justice, London, on ——, the —— day of ——, 188— (*j*), at —— o'clock in the —— noon: being the time appointed for adjudicating on the claims.

Dated (*&c.: Conclude as in* Form 1165).

1171. Particulars of claim. [Dan. Pr. 1016.]

Sir.

(*Short title of matter or cause, as in the advertisement.*)

I, the undersigned (*Set out, in full, the christian and surnames, address, and description of the claimant* (*k*)*; as thus:*

Edward Williams, of Swanage, in the county of Dorset, Grocer, trading under the name or style of Thornton & Williams),

investigation of claims, see Dan. Pr. 1016—1019; 2 Seton, 829—831. As to production of documents relating to claims: Dan. Pr. 1022. As to proof of debts becoming due subsequently to death of the debtor, and as to provision to meet liabilities: *Ibid.*, 1022, 1023; 2 Seton, 887—892. As to setting up the Statute of Limitations: Dan. Pr. 1024; 2 Seton, 833—836. As to the course open to a claimant whose claim has been disallowed: Dan. Pr. 1026. As to the computation and payment of interest on debts: *Ibid.*, 1027—1034; 2 Seton, 798—800, 819, 820, 845, 1674. As to the computation of interest with rests: Dan. Pr. 1034; 1 Seton, 474, 475, 478, 479. As to the right of a creditor to the costs of establishing his debt: Dan. Pr. 1034, 1035; 2 Seton, 832; R. S. C. Ord. LV. 58. As to contribution and refunding: Dan. Pr. 1036; 2 Seton, 832.

(*g*) Usually a month from the issuing of the advertisement.

(*h*) It is convenient that the advertisement should provide for claims being sent to one member of the firm, rather than to the firm: as in the latter case every member of the firm would have to join in the affidavit as to claims.

(*i*) See R. S. C. Ord. LV. 44; and note (*g*), *supra*. As to the effect of this clause, see Dan. Pr. 1024—1026.

(*j*) Usually three weeks from the expiration of the time for sending the particulars: Dan. Pr. 1016.

(*k*) In the case of a firm, set out the full Christian and surnames of the persons constituting it, as well as the name or style in which they trade or carry on business.

beg to inform you that I claim to be a creditor upon the estate of A. B., late of (*&c.: as in the advertisement*) for the sum of £——,

(*Set out, or refer to an inclosure, containing the full particulars of the claim; as thus:*

being money lent by me to the said A. B., on the —— day of ——, 188—,

Or, for goods sold and delivered by me to the said A. B.: the full particulars whereof are comprised in the paper writing marked L., sent herewith);

and that the only security I hold for the debt so due to me, or any part thereof, is (*State the nature of the security, if any; as thus:*

an I O U of the said A. B., for the said £——, dated ——, 188—.

Or, and that I do not hold any security whatsoever for the debt so due to me, or any part thereof).

(*Signature of creditor, and date.*)

To (*Name and address of the person to whom, by the advertisement, the notice is directed to be sent*).

1172. Notice to creditor to produce documents (*l*). [Dan. Pr. 1017.]

(*Short title.*)

You are hereby required to produce, in support of the claim sent in by you against the estate of A. B., deceased (*Describe any probate, administration, deed, or document required to be produced; as thus:*

the probate of the will of C. D., granted to you,

Or, letters of administration of the personal estate of C. D., granted to you).

before Mr. Justice ——, at his Chambers, at the Royal Courts of Justice, London, on ——, the —— day of ——, 188—, at —— of the clock in the ——noon.

Dated this —— day of ——, 188—.

G. R., of (*place of business*),
Solicitor for the plaintiff [*or*, defendant—*or as may be*].

To (*Name of claimant*).

1173. Affidavit of investigation of the claims sent in (*m*). [Dan. Pr. 1017.]

(*Title and reference to the record.*)

We, C. D., of (*residence and addition*), the above-named plaintiff [*or*, defendant—*or as may be*], the executor [*or*, administrator] of A. B., late of (*residence and addition: as in the advertisement*), deceased, and E. F., of (*place of business*), solicitor in this cause [*or*, matter] for the said C. D. [*or as may be*] (*n*), severally make oath and say, as follows:

I, the said E. F., for myself, say as follows:

(*l*) See R. S. C. Ord. LV. 50; App. L., No. 4; and note (*q*), *supra*.
(*m*) See R. S. C. Ord. LV. 52; App. L., No. 5; and note (*q*), *supra*.
(*n*) See R. S. C. Ord. LV. 52; and note (*q*), *supra*.

1. I have in the paper writing, now produced and shown to me, and marked A., set forth a list of all the claims, the particulars of which have been sent in to me by persons claiming to be creditors of the said A. B., deceased, pursuant to the advertisement issued in that behalf, dated the —— day of ——, 188—.

And I, the said C. D., for myself say, as follows :—

2. I have examined the particulars of the several claims mentioned in the paper writing, now produced and shown to me, and marked A., and I have compared the same with the books, accounts, and documents of the said A. B. [*or as may be; and state any other inquiries or investigations made*], in order to ascertain, so far as I am able, to which of such claims the estate of the said A. B. is justly liable.

3. From such examination (*and state any other reasons*), I am of opinion, and verily believe, that the estate of the said A. B. is justly liable to the amounts set forth in the sixth column of the first part of the said paper writing marked A.; and to the best of my knowledge and belief such several amounts are justly due from the estate of the said A. B., and proper to be allowed to the respective claimants named in the said schedule.

4. I am of opinion that the estate of the said A. B. is not justly liable to the claims set forth in the second part of the said paper writing marked A., and that the same ought not to be allowed without proof by the respective claimants.

Or, 4. I am not able to state whether the estate of the said A. B. is justly liable to the claims set forth in the second part of the said paper writing marked A., or whether such claims, or any parts thereof, are proper to be allowed without further evidence.

5. Except as hereinbefore mentioned, there are not, to the best of my knowledge, information, and belief, any other claims against the estate of the said A. B.

Sworn (*&c.: see* Form 10).

1174.

List of claims to be exhibited to the affidavit of investigation (*o*). [Dan. Pr. 1017.]

(*Short title.*)

List of claims, the particulars of which have been sent in to E. F., the solicitor of the plaintiff [*or*, defendant—*or as may be*], by persons claiming to be creditors of A. B., deceased, pursuant to the advertisement issued in that behalf, dated the —— day of ——, 188—.

This paper writing, marked A., was produced and shown to C. D. (and E. F.), and is the same as is referred to in his [*or*, their] affidavit, sworn before me this —— day of ——, 188—.

W. B. (*&c.: see* Form 9).

(*o*) See R. S. C. Ord. LV. 52; App. L., No. 6; and note (*q*), *supra*.

First Part.—Claims proper to be allowed without further evidence.

Serial No. (*p*).	Names of claimants.	Addresses and descriptions.	Particulars of claim.	Amount claimed.	Amount proper to be allowed.
				£ *s. d.*	£ *s. d.*

Second Part.—Claims which ought to be proved by the claimants.

Serial No. (*p*).	Names of claimants.	Addresses and descriptions.	Particulars of claim.	Amount claimed.
				£ *s. d.*

1175. Affidavit of non-receipt of any claim under the advertisement (*q*). [Dan. Pr. 1018, note (*l*).]

(*Title and reference to the record.*)

We, C. D., of [*Continue as in* Form 1173 *down to* "as follows"]. I the said E. F., for myself, say as follows :—

1. No claim, or particulars of any claim, has or have been sent in to me, by any person or persons claiming to be a creditor or creditors of the said A. B., deceased, pursuant to the advertisement issued in that behalf in this cause [*or*, matter], dated the —— day of ——, 188—, and which was published in the "London Gazette" of the —— day of ——, 188—.

And I the said C. D., for myself, say as follows :

2. There are not, to the best of my knowledge, information, and belief, any claims against the estate of the said A. B.

Sworn (*&c.: see* Form 10).

(*p*) The claims should be numbered in numerical order ; and great care should be taken that those in the second part are numbered *in continuation* of the numbers of those in the first part.

(*q*) Inasmuch as the form of affidavit verifying claims contained in R. S. C. App. L., No. 5 (see Form 1173), requires the legal personal representative of the deceased to state whether there are any claims against the estate, other than those contained in the claim list, it would seem that the legal personal representative ought also to join in the affidavit of non-receipt of claims.

1176.

Notice to creditor to prove his claim (*r*). [Dan. Pr. 1019.]

(*Short title and reference to the record.*)

You are hereby required to prove the claim sent in by you against the estate of A. B., deceased. You are to file such affidavit as you may be advised in support of your claim, and give notice thereof to me, on or before the —— day of ——, 188— (*s*); and to attend, by your solicitor, at the Chambers of Mr. Justice ——, situate at the Royal Courts of Justice, on ——, the —— day of ——, 188—, at —— o'clock in the ——noon (*t*); being the time appointed for adjudicating on the claim. Dated (*&c.: Conclude as in* Form 1172).

1177.

Affidavit of service of notice to creditor.

Formal parts: see Form 6.

1. On the —— day of —— now instant [*or*, last], before six [*or*, two] o'clock in the afternoon, I served in manner hereinafter mentioned, the several firms and persons respectively named in the second column of the schedule hereto with a notice in writing to prove their claims in this action, and which notice is now produced and shown to me, and marked "A."

2. I so served the said notice by posting, at the Post Office Receiving House, situate at ——, in the —— of ——, sealed envelopes, addressed to the said firms and persons severally and respectively, according to their respective names and addresses set forth in the second and third columns of the said schedule, with the proper postage-stamps affixed thereto as prepaid letters, and each of the said envelopes, at the time I posted the same as aforesaid, had enclosed therein a true copy of the said notice, with the addition at the foot thereof of the name of the firm or person to whom the envelope enclosing such copy was then addressed.

3. I have in the fourth column of the said schedule set forth the names of the persons by whom, according to the only notices received by G. H., the solicitor for the defendant E. F. [*or as may be*], pursuant to the notices posted as aforesaid, affidavits have been made in support of the said claims of the said firms and persons respectively.

SCHEDULE.

Serial No. of claim (*u*).	Name of claimant.	Address of claimant.	Name of deponent.
18	William Thompson.	Northallerton.	William Thompson.
24	Wilson & Co.	Banbury.	James Ferguson.

(*r*) See R. S. C. Ord. LV. 56; App. B., No. 8; and note (*q*), at p. 467.

(*s*) This time is not to be less than seven days after the notice: R. S. C. Ord. LV. 56; and note (*q*), at p. 467.

(*t*) Insert the time to which the adjudication has been adjourned: *Ibid.*

(*u*) These numbers should agree with those in the claim list.

1178.

Notice to creditor of allowance of claim (*v*). [Dan. Pr. 1019.]

(*Short title and reference to the record.*)

The claim sent in by you against the estate of A. B., deceased, has been allowed at the sum of £——, with interest thereon, at £— per cent. per annum, from the —— day of ——, 188—, and £—— for costs.

If part only has been allowed, add: If you claim to have a larger sum allowed, you are hereby required to prove such further claim, and you are to file such affidavit (*Continue as in* Form 1176, *to the end*).

1179.

Affidavit to prove a debt due on a judgment. [Dan. Pr. 1019, 1028.]

Formal parts: see Form 6.

1. A. B., the testator [*or*, intestate] in the judgment [*or*, order] dated the —— day of ——, 188—, in this action [*or*, matter] named, was at the time of his death, and his estate still is, justly and truly indebted to me in the two several sums of £—— and £——, and interest at the rate of £4 per cent. per annum on the said sum of £——, from the —— day of ——, 188—, and on the said sum of £——, from the —— day of ——, 188—, upon and by virtue of a judgment recovered by me against the said A. B. in the —— Division of Her Majesty's High Court of Justice, and dated the —— day of ——, 188—.

2. The paper writing, marked G. H. 1 (*w*), now produced and shown to me, is an office copy of the said judgment, which still remains in full force, unreversed and unsatisfied.

3. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, lastly say, that I have not, nor hath nor have any other person or persons by my order, or for my use, received any security or satisfaction whatsoever for the said sums of £—— and £——, and interest, or any part thereof respectively, save and except the said judgment [*or as may be*].

1180.

Affidavit to prove a debt due on a mortgage, and covenant to pay (*x*). [Dan. Pr. 1019.]

Formal parts: see Form 6.

1. By an indenture dated the —— day of ——, 188—, now produced and shown to me, and marked G. H. 1 (*w*), and made between A. B., the testator [*or*, intestate] in the judgment [*or*, order] dated the —— day of ——, 188—, in this action [*or*, matter] named, of the one part, and myself of the other part, the said A. B. granted and conveyed a farm called Blackacre, in the parish of A., in the county of B., with the appurtenances, unto and to the use of me, my heirs and assigns: subject

(*v*) See R. S. C. Ord. LV. 56; App. L., No. 7; and note (*q*), at p. 467.

(*w*) Exhibit it. For form of memorandum of exhibit, see Form 28. It is convenient that the exhibit mark employed should be the initial letters of the deponent's name, followed by a number. In the case of numerous claimants confusion is thus avoided, and the copies of the exhibits supplied to the party examining the claims are more readily distinguished.

(*x*) As to proof by a secured creditor in the case of the debtor's death occurring on or after 1st November, 1875, see Sup. Cot. Jud. Act, 1875 (38 & 39 Vict. c. 77), s. 10.

to a proviso for redemption thereof, in case the said A. B., his heirs, executors, or administrators, should on the —— day of ——, 188—, pay to me, my executors, administrators, or assigns, the sum of £5,000, with interest thereon in the meantime, at the rate of £5 per cent. per annum; and the said A. B., for himself, his heirs, executors, and administrators, thereby covenanted with me, to pay me the said sum of £5,000, with interest as aforesaid, according to the said proviso.

2. On the —— day of ——, 188—, the said A. B. paid to me the sum of £1,000 in part discharge of the said £5,000.

3. The said A. B. was at the time of his death, and his estate still is, justly and truly indebted to me in the sum of £4,000, residue of the said £5,000, with interest on the said £4,000 at the rate aforesaid, from the —— day of ——, 188—, upon and by virtue of the said indenture.

4. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, lastly say, that I have not, nor hath nor have any other person or persons by my order, or for my use, received any satisfaction or security whatsoever for the said sum of £4,000, and interest, or any part thereof respectively, save and except the said mortgage charge.

5. I estimate the value of my said security at the sum of £——, and I claim to be entitled to prove against the estate of the said A. B. for the sum of £——, being the balance of the said sum of £4,000, and interest thereon, after deducting the said sum of £—— (*estimated value of security*) (*y*).

1181.

Affidavit to prove a debt due on a common money bond. [Dan. Pr. 1019, 1028.]

Formal parts: see Form 6.

1. A. B., the testator [*or*, intestate] in the judgment [*or*, order] dated the —— day of ——, 188—, in this action [*or*, matter] named, made his bond dated the —— day of ——, 188—, to me in the penal sum of £——, conditioned for the payment by him, his executors or administrators, to me of the sum of £200, on the —— day of ——, 188—, together with interest thereon, in the mean time, at the rate of £5 per cent. per annum; and which said bond is now produced and shown to me, and is marked G. H. 1 (*z*).

2. The said A. B. was at the time of his death, and his estate still is, justly and truly indebted to me in the sum of £100, with interest thereon at the rate aforesaid from the —— day of ——, 188—, upon and by virtue of the said bond.

3. And I, speaking positively (*Continue as in paragraph 4 of* Form 1180, *to the end of that paragraph: varying the statement, where necessary*).

(*y*) See Sup. Cot. Jud. Act, 1875 (38 & 39 Vict. c. 77), s. 10; *Re Hopkins, Williams* v. *Hopkins*, 18 Ch. D. 370: 31 W. R. 495; and see the cases cited in Dan. Pr. 1019, note (*p*); Wilson, 103, 104; Ann. Pr. 45—49.

(*z*) Exhibit it. For form of memorandum of exhibit, see Form 28; and see note (*w*), *supra*.

1182.
Affidavit to prove arrears due on bond to secure an annuity.
[Dan. Pr. 1019, 1029.]

Proceed as in Form 1181, *to* conditioned ; *and continue thus :*
for the payment by him, his executors or administrators, of the sum of £20 a year to me, during the life of E. F.: who is still living [*or as may be*]; and which said bond is now produced and shown to me, and is marked G. H. 1 (*a*).

2. The said A. B. was at the time of his death, and his estate still is, justly and truly indebted to me in the sum of £40, for arrears of the said annuity computed to the —— day of ——, 188—, upon and by virtue of the said bond.

3. And I, speaking positively (*Continue as in paragraph* 4 *of* Form 1180, *to the end of that paragraph : varying the statement, where necessary*).

1183.
Affidavit to prove a debt due on a bill of exchange.
[Dan. Pr. 1019, 1032.]

Formal parts : see Form 6.

1. A. B., the testator [*or*, intestate] in the judgment [*or*, order] dated the —— day of ——, 188—, in this action [*or*, matter] named, was at the time of his death, and his estate still is, justly and truly indebted to me in the sum of £80, for principal money due on a bill of exchange dated the ——, 188—, drawn by me upon, and accepted by the said A. B., for the payment of £80 to me, three months after the date thereof ;

Or, due on a bill of exchange dated, *&c.*, drawn by one C. D. upon and accepted by the said A. B., for the payment of £80 to me three months after the date thereof ;

Or, due to me as indorsee of a bill of exchange dated, *&c.*, drawn by C. D. upon and accepted by the said A. B. for the payment of £80 to the order of the said C. D., three months after the date thereof, and by him indorsed to me [*or as may be*] ;

together with interest on the said principal sum, at the rate of £5 per cent. per annum, from the —— day of ——, 188— ; and which said bill of exchange is now produced and shown to me, and is marked G. H. 1 (*a*).

2. And I, speaking positively (*Continue as in paragraph* 4 *of* Form 1180, *to the end of that paragraph : varying the statement, where necessary*).

1184.
The like, on a promissory note.
[Dan. Pr. 1019, 1032.]

Proceed as in Form 1183, *to* principal money ; *and continue thus :*
due on a promissory note dated the ——, 188—, for £80, made by the said A. B., whereby he promised to pay to me or my order the sum of £80, one month after the date thereof ;

Or, due on a promissory note dated, *&c.*, for £80, made by the said A. B., and payable to me on demand ;

Or, due to me as indorsee of a promissory note dated, *&c.*, made by the said A. B., for the payment of £80 to the order of E. F., one

(*a*) Exhibit it. For form of memorandum of exhibit, see Form 28 ; and see note (*w*), *supra*.

month after the date thereof, and by the said E. F. indorsed to me [*or as may be*];

together with interest (*Continue as in* Form 1183, *to the end: substituting* promissory note *for* bill of exchange).

1185.

Affidavit to prove a debt due on a cheque. [Dan. Pr. 1019.]

Proceed as in Form 1183, *to* principal money; *and continue thus:*

due to me as the payee of a banker's cheque, dated the ——, 188—, drawn by the said A. B. on Messrs. C. D. & Co., for the payment of £80 to me or bearer, on demand;

Or, due to me as the bearer of a banker's cheque, dated, *&c.*, drawn by the said A. B. on Messrs. C. D. & Co., for the payment of £80 to E. F. or bearer, on demand, and by the said E. F. transferred and delivered to me;

and which said cheque has been duly presented to, and refused payment by, the said Messrs. C. D. & Co.; and is now produced and shown to me, and marked G. H. 1 (*b*).

2. And I, speaking positively (*Continue as in paragraph* 4 *of* Form 1180, *to the end of that paragraph: varying the statement, where necessary*).

1186.

The like, on a simple contract. [Dan. Pr. 1019, 1030.]

Formal parts: see Form 6.

1. A. B., the testator [*or*, intestate] in the judgment [*or*, order] dated the —— day of ——, 188—, in this action [*or*, matter] named, was at the time of his death, and his estate still is, justly and truly indebted to me in the sum of £150 for (*State what; as in the following examples:*

money lent by me to the said A. B.

money paid by me for the use of the said A. B. at his request.

money received by the said A. B. for my use.

money found to be due from the said A. B. to me, on an account stated between us.

goods sold and delivered by me to the said A. B.

work done, and materials for the same provided, by me for the said A. B., at his request.

salary due and payable from the said A. B. to me, for my services done for the said A. B. as his clerk, and on his retainer.

work done by me as the agent of and for the said A. B., and on his retainer, and for commission and reward due and of right payable from him to me in respect thereof.

work done as a solicitor, and materials for the same provided by me for the said A. B., upon his retainer, and for fees due and payable to me in respect thereof, and for money paid by me for the use of the said A. B., at his request).

If so: And in the further sum of £5 for interest upon, and for the for-

(*b*) Exhibit it. For form of memorandum of exhibit, see Form 28; and see note (*w*), *supra*.

bearance at interest to the said A. B. by me, at his request, for divers spaces of time, of moneys due and owing to me from the said A. B.; and which interest the said A. B. contracted and agreed with me to pay me (*c*).

2. The full particulars of my aforesaid demand are set forth in the paper writing now produced and shown to me, and marked G. H. 1 (*d*).

Where applicable, add: The prices charged in the said paper writing marked G. H. 1 are fair and reasonable, and such as are usual and customary in the trade or business [*or*, profession] of a timber merchant [*or as may be*]: as I know from having carried on such trade, *&c.*, for —— years last past.

3. And I, speaking positively (*Continue as in paragraph* 4 *of* Form 1180, *to the end of that paragraph: varying the statement, where necessary*).

1187.

Affidavit by a personal representative, to prove a debt due to the estate. [Dan. Pr. 1019.]

(*Title and reference to the record.*)

I, C. D., of (*residence and addition*), the executor of the will [*or*, administrator of the personal estate] of E. F., late of (*residence and addition*): who died on the —— day of ——, 188—: acting under probate of such will [*or*, letters of administration of such estate] granted to me by the Principal Registry [*or as may be*] of the Probate Division of this Court on the —— day of ——, 188—, make oath and say, as follows:

1. *State, in numbered paragraphs, the nature and existence of the debt: as in* Forms 1179 *to* 1186*; and conclude as follows:*

2. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, lastly say, that the said E. F. did not in his lifetime, and I have not, nor have nor hath any other persons or person by the order of the said E. F., or of myself, or for his or my use, received any security or satisfaction whatsoever for the said sum of £—— [*or as may be; see pars.* 4, 5 *of* Form 1180].

Sworn (*&c.: see* Form 9).

1188.

Summons for leave to make a claim, where the time allowed has expired, but certificate not made (*e*). [Dan. Pr. 1019.]

Formal parts: see Form 43 *or* 1077.

on the part of A. B., of (*residence and addition*), that notwithstanding the time limited for making claims has expired, he may be at liberty, under the judgment [*or*, order] dated the —— day of ——, 188—, in this action [*or* matter], to make and establish his claim (*State in respect of what*; *as thus:*

as a creditor upon the estate of C. D., the testator [*or*, intestate] in the said judgment [*or*, order] named, for the sum of £——).

(*c*) As to the interest allowed in equity on stated accounts, see Dan. Pr. 1033; 2 Seton, 798.

(*d*) Exhibit same. For form of memorandum of exhibit, see Form 28; and see note (*w*), *supra*.

(*e*) See R. S. C. Ord. LV. 57; and note (*q*), at p. 467. As to the time for proving debts, see 2 Seton, 831, 832. For forms of order, *Ibid.*, 828, Nos. 3, 4, 5.

1189.

Summons to be admitted as a creditor, after direction to apportion fund amongst certified creditors, but before apportionment made (*f*). [Dan. Pr. 1020.]

Formal parts: see Form 43 *or* 1077.

on the part of A. B., of (*residence and addition*):

1. That he may be allowed to rank as a creditor upon the estate of C. D., the testator [*or*, intestate] in the judgment in this action dated the —— day of ——, 188—, named, for the sum of £——, and for interest thereon at the rate of £4 per cent. per annum from the date of the said judgment [*or as may be*].

2. That, notwithstanding the order on further consideration, dated the —— day of ——, 188—, the residue which will remain of the sum of £1,000 therein mentioned, after payment of the costs thereby directed to be taxed, may be directed to be apportioned amongst the applicant, in respect of his said debt and interest, and the several other creditors of the said C. D. whose debts are certified by the Chief Clerk's certificate dated the —— day of ——, 188—, in proportion to the respective amounts due to the applicant, and the said other creditors.

3. That the apportioned sums may be directed to be paid to the applicant, and the said other creditors accordingly.

1190.

Notice to creditors, under 22 & 23 Vict. c. 35, s. 29 (*g*). [Dan. Pr. 1013.]

John Thomas [*or as may be*], deceased.

Statutory Notice to Creditors.

Pursuant to the twenty-ninth section of the Act of Parliament of the 22nd & 23rd Victoria, chapter 35, intituled "An Act to further amend the law of property, and to relieve trustees," notice is hereby given, that all creditors and other persons having any claims or demands upon or against the estate of John Thomas [*or as may be*], late of (*add residence and addition*): who died at ——, in the (county) of ——, on the —— day of ——, 188—, and whose will was duly proved by [*or*, and letters of administration of whose personal estate were duly granted to] C. D., of (*residence and addition*), in [*or*, by] the Probate Division of the High Court of Justice, Principal Registry [*or*, District Registry at ——], on the —— day of ——, 188—: are hereby required to send, in writing, the particulars of their claims or demands to the said C. D., at his residence aforesaid,

Or, to the undersigned E. F., the solicitor of the said C. D., at the office of the said E. F., situate at (*State where*), in the (county) of ——,

on or before the —— day of ——, 188—. And notice is hereby also given that, at the expiration of the last-mentioned day, the said C. D. will proceed to distribute the assets of the said John Thomas [*or as may be*], amongst the parties entitled thereto, having regard to the claims of which the said C. D. has then had notice; and that the said C. D. will

(*f*) For form of petition in the like case, see Dan. Forms, 3rd. ed., No. 995. For form of order, see 2 Seton, 828, No. 6.

(*g*) Where the legal personal representative has already issued advertisements under 22 & 23 Vict. c. 35, s. 29, it will not in general be necessary to issue fresh advertisements. In such case the Court will have to be satisfied that the advertisements issued were sufficient in form and number of insertions, and an affidavit of result (see Form 1191) will be required.

not be liable for the assets, or any part thereof, so distributed, to any person of whose claim the said C. D. has not had notice at the time of the distribution. Dated this —— day of ——, 188—.

C. D.

[*Or*, E. F., of (*Place of business*), solicitor of the said C. D.]

1191. Affidavit of result of the notice.

(*Proceed as in* Form 1173 *to* as follows.)

I, the said E. F., for myself say as follows :—

Prove publication of notice ; as thus : 1. In pursuance of instructions received by me from the above-named C. D., I caused the notice of which a true copy is set forth in the schedule hereto to be inserted in the following newspapers, and on the respective days following, namely : The London Gazette of the ——, The (*Set out the names of the other newspapers, and dates of publication*).

If no claim sent in, say: 2. No claim or demand, or particulars of a claim or demand, has or have at any time been received by me from any creditor or other person having, or claiming to have, any claim or demand upon or against the estate of the above-named A. B. ; and there is not to the best of my knowledge, information, and belief any claim or demand against the said estate [*or as may be* (*h*)].

Or, if claims sent in, say : 2. Every claim or demand, or particulars of a claim or demand, received by me at any time from any creditor or other person having, or claiming to have, a claim or demand upon or against the estate of the above-named A. B. have been duly sent by me to the said C. D. or otherwise communicated to him ; and there is not to the best (*&c. ; Continue as in last paragraph to the end*).

And I, the said C. D., say as follows :—

If no claim sent in, or otherwise outstanding, say : 3. There is not, to the best of my knowledge, information, and belief, any claim against the estate of the above-named A. B. (*i*).

Or, if claims sent in and disposed of, say : 3. Every claim or demand against the estate of the above-named A. B. of which notice or the particulars has or have been received by me from the said E. F., or otherwise sent or communicated to me, has been satisfied and discharged or otherwise finally disposed of ; and there is not (*Continue as in last paragraph to the end*).

Or, if any claims are still undisposed of, say : 3. The claims against the estate of the above-named A. B. of which the particulars are set forth in the paper writing now produced and shown to me, and marked A., are unsatisfied or undisposed of.

4. I have examined the particulars of the said several claims and I have compared (*&c. : as in paragraph* 2 *of* Form 1173, *to the end of that Form*).

SCHEDULE.

(*h*) See R. S. C. App. L., No. 5 ; and Form 1173.

(*i*) *Ibid.*

1192.
Summons for payment by claimant of costs of his unsuccessful claim (*j*). [Dan. Pr. 1035.]

Formal parts : see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be : see* Form 1159], that the costs occasioned to the applicant, and the other parties to this action [*or as may be*], by reason of the claim made by E. F., of (*residence and addition*), to rank as a creditor upon the estate of the testator G. H. [*or as may be*], under the judgment [*or*, order] dated the —— day of ——, 188—, but which claim has been disallowed, may be ascertained at Chambers, or taxed by the Taxing Master; and that the said E. F. may be ordered to pay such costs to the applicant and the other parties entitled thereto [*or as may be*].

1193.
List of debts allowed (*k*). [Dan. Pr. 1024.]

(*Short title and reference to the record.*)

List of Debts.

Serial No. of claim.	Names of Creditors.	Addresses.	Amounts allowed for principal, interest, and costs. £ s. d.	Total amounts due. £ s. d.
2	James Allen .	Boston, in the county of Lincoln, Surgeon . .	100 0 0	
		Interest . . .	4 0 0	
		Costs . . .	2 2 0	
				106 2 0
1	Charles Cohen .	98, Piccadilly, in the county of Middlesex, Gentleman, Executor of John Thomas	67 0 0	
		Interest from 5th October, 18—, at £5 per cent. . . .	4 2 0	
		Costs . . .	2 2 0	
				73 4 0
5	John Dennis, and Owen Thomas .	16, Fleet Street, London, Grocers and copartners .	100 0 0	
		Interest from 16th October, 18—, at £5 per cent. . .	5 0 0	
		Another debt	62 0 0	
		Interest . . .	2 10 0	
		Costs	2 4 6	
				171 14 6
			Total £	351 0 6

(*j*) See 2 Seton, 832.

(*k*) See R. S. C. Ord. LV. 59 ; App. L. No. 17 : and note (*q*), at p. 467. The list must be written on foolscap paper, bookwise : R. S. C. Ord. LXVI. 2 ; and, in preparing it, the following directions must be attended to :—The names of the creditors are to be inserted in alphabetical order. When the debt does not carry interest, but interest is allowed under R. S. C. Ord. LV. 62, it is to be stated as in the first example in the list. If the debt carries interest, the rate and time from which it is computed should be stated, as in the second example. As in all cases the interest is computed to the date of the certificate, this need not be stated. On taking an account

(9.) *Inquiries as to Legacies and Annuities* (*l*).

(*Dan. Pr.* pp. 1036—1039, cccxcii.)

1194. Affidavit by a beneficiary as to incumbrances by him (*m*). [Dan. Pr. 1036.]

(*Title and reference to the record.*)

I, John Jones, of (*residence and addition; and identify the deponent with the action or matter; as thus:* one of the defendants above-named, *Or*, one of the children of Ephraim Jones, the testator in the judgment in this action [*or*, matter] dated the —— day of ——, 188—, named—*or as may be*),

make oath and say as follows:

1. I have not at any time mortgaged, charged, or otherwise incumbered the legacy of £1,000 bequeathed to me by the will of the testator Ephraim Jones, or any part thereof [*or as may be; according to the inquiry directed*], to, or in favour of, any person or persons whomsoever.

If so: save and except as hereinafter mentioned, that is to say: By an indenture dated the —— day of ——, 188—, and made between myself of the one part, and Charles Davies, of, *&c.*, of the other part, I assigned the said legacy, and the interest due, and to accrue due in respect thereof, unto the said Charles Davies, to secure to him the repayment of £100, with interest thereon at the rate of £5 per cent. per annum; and which sum, with interest thereon at the rate aforesaid from the —— day of ——, 188—, remains due to the said Charles Davies upon the security of the said indenture [*or as may be*].

Sworn (*&c.: see* Form 9).

1195. Affidavit by an executor or a trustee as to notices received of incumbrances. [Dan. Pr. 1036.]

(*Title and reference to the record.*)

I, A. B., of (*residence and addition*), the above-named defendant, and the executor of the will of Ephraim Jones, the testator in the judgment [*or*, order] in this action [*or*, matter] dated the —— day of ——, 188—, named [*or as may be*], make oath and say as follows:

1. I have not at any time received notice of any mortgage, charge, or incumbrance created by any person or persons interested under the will of the said Ephraim Jones, of the legacies, shares, or interests, thereby bequeathed to them respectively, or any part or parts thereof [*or as may be; according to the inquiry directed*].

of debts, or ascertaining the amount of any debt, due from a deceased person in any cause or matter, when any creditor is required to prove his debt otherwise than by production of his security, a fee is payable of 1*s.* for every 100*l.* or fraction of 100*l.* of the amount found to be due to such creditor, or (if more than one), of the aggregate amount found to be due to all such creditors. The amount in respect of which this percentage is payable is limited to 200,000*l.* On every claim disallowed after evidence adduced by the creditor, a fee of 10*s.* is payable. The above fees are respectively payable by the party conducting the proceedings, on the Chief Clerk's certificate being made; and are payable by stamps impressed on or attached to the certificate: Ord. as to S. C. Fees, 1884, Sched. Nos. 73, 74; Ord. as to Fees, &c., July, 1884, p. 9.

(*l*) For form of advertisement for legatees and incumbrancers to come in under a judgment or order, see Form 1165.

(*m*) For form of inquiry as to incumbrances on shares of residue, see 2 Seton 853, No. 14.

If so: save and except the —— notices now produced and shown to me, and marked respectively A. B. 1, A. B. 2, *&c.* (*n*); and which notices were received by me on the respective days set forth in the first column of the schedule hereto; and the short particulars thereof are set forth in the second column of such schedule, opposite the respective days on which such notices respectively were so received.

The Schedule above referred to.

Date when notice received (*o*).	Short particulars.
1st January, 188— . .	A notice dated ——, 188—, from Messrs. A. & B., of an assignment by John Jones of his legacy of £1000 to Charles Davies, to secure £100 and interest.
8th August, 188— . . .	A notice, &c., &c.

Sworn (*&c.*: *see* Form 9).

1196.

List of legacies remaining unpaid (*p*). [Dan. Pr. 1037.]

(*Short title and reference to the record.*)

List of Legacies.

Serial No.	Names of legatees.	Descriptions.	Amounts of principal and interest.	Total amounts due.
			£ *s.* *d.*	£ *s.* *d.*
1	James Oliver .	Son of testator, an infant .	100 0 0	
		Interest (*q*) . .	7 5 6	
				107 5 6
2	Mary Russell .	of 20, Cheapside, London, widow	50 0 0	
		Interest from 1st January, 1869, the death of testator .	4 8 4	
				54 8 4
3	Jane, the wife of John Williams .	of Lincoln, Esq. . . .	250 0 0	
		Paid in part . .	50 0 0	
			200 0 0	
		Interest . . .	14 11 0	
				214 11 0
			Total £	376 4 10

(*n*) Exhibit same. For form of memorandum of exhibit, see Form 28; and note (*ss*), thereto.

(*o*) The dates in this column should be placed in chronological order.

(*p*) See R. S. C. Ord. LV. 75; App. L., No. 18. The list must be written on foolscap paper, bookwise: R. S. C. Ord. LXVI. 2; and in preparing it the following directions should be observed:—Where the interest is to be computed from the end of one year after testator's death, it should be stated as in the first example above; if otherwise, the time from which it is payable should be stated; and as in all cases interest is computed to the date of the certificate, this need not be stated.

(*q*) *Interest on legacies.*—Where a judgment or order is made directing an

1197.
List of annuities and arrears due (*r*). [Dan. Pr. 1037.]

(*Short title and reference to the record.*)
List of Annuities.

Serial No.	Names of annuitants.	Description of annuitants, and nature of annuities.	Amounts of annuities.	Amounts of arrears due.
			£ s. d.	£ s. d.
1	Mary Jones .	Spinster, daughter of testator, during her life . .	50 0 0	25 0 0
2	Maria Williams	Widow of testator, during her life and widowhood . Arrears due from 7th of August, 1882, down to which it has been paid (*s*) . .	200 0 0	. . . 300 0 0
		Totals . . £	250 0 0	325 0 0

(10.) *Investments in the Purchase, or on Mortgage, of an Estate* (*t*).

(*Dan. Pr.*, pp. 1039—1042.)

(A.) *Approval of the Investment.*

1198.
Summons, to approve of the investment by trustees of a fund in their names, in a purchase or on mortgage (*u*). [Dan. Pr. 1040.]

Formal parts : see Form 43 *or* 1077.

on the part of the defendants C. D. and E. F. [*or as may be*] :

1. That the conditional agreement dated the —— day of ——, 188—,

account of legacies, interest is to be computed on such legacies after the rate of four per cent. per annum from the end of one year after the testator's death, unless otherwise ordered, or unless any other time of payment or rate of interest is directed by the will, and in that case according to the will : R. S. C. Ord. LV. 64. As to interest on legacies, see Dan. Pr. 1037, 1038 ; 2 Seton, 874. As to the rate of interest on a legacy to be raised out of land abroad, see *Balfour* v. *Cooper*, 23 Ch. D. 472 : 31 W. R. 569. Legatees directed to be paid within four years after decease of testator were held entitled to interest as from one year from testator's death : *In re Olive*, *Olive* v. *Westerman*, W. N. (1884), 81.

(*r*) See R. S. C. Ord. LV. 75 ; App. L., No. 19. The list must be written on foolscap paper, bookwise : R. S. C. Ord. LXVI. 2 ; and, in preparing it, the arrears should be explained as in the second example, if due from any other period than that of testator's death.

(*s*) As to computation of arrears of annuities, see Dan. Pr. 1037 ; 2 Seton, 961—963.

(*t*) See Dan. Pr. 1039—1042. As to investments by the Court, and by trustees under or without its sanction, see R. S. C. Ord. XXII. 17 ; Lewin, 281—301 ; 1 Seton, 85—88, 488—491 ; 2 Seton, 1245 ; 2 Spence, Eq. Jur. 925—927 ; 4 & 5 Will. IV. c. 29 ; 22 & 23 Vict. c. 35, s. 32 ; 23 & 24 Vict. c. 38, ss. 10—12 ; Sugd. Stat. 323, 324 ; 28 & 29 Vict. c. 78, s. 40 ; 30 & 31 Vict. c. 132 ; 32 & 33 Vict. c. 106, s. 16 ; 33 & 34 Vict. c. 34 ; 45 & 46 Vict. c. 38, ss. 21—24, 32—34.

(*u*) The application is usually made by summons : 2 Seton, 1245. It has not therefore been thought necessary to retain in this edition of the present work a form of application by petition. For such form, see Dan. Forms, 3rd ed., No. 1010. For forms of order made on petition, see 1 Seton 486, No. 2 ; 2 *Ibid.*, 1241, No. 12.

entered into by the applicants with G. H., of *&c.*, for the purchase from him at the sum of £6,000 [*or*, for a loan to him of the sum of £6,000 on the security of a mortgage, bearing interest at £— per cent.], of certain hereditaments belonging to him, situate at, *&c.*, may be approved on behalf of the parties interested under the will of A. B., the testator in the pleadings in this action named, in his residuary personal estate; and be carried into effect.

2. That the usual inquiry may be directed as to the title to the said hereditaments (*v*).

3. That in case such title shall be approved, a proper conveyance [*or*, mortgage] of the said hereditaments to the applicants, the trustees of the said will, may be settled.

4. That upon the due execution thereof by such parties as shall be certified to be proper (*w*), the applicants may be at liberty to raise the said £6,000 out of a fund of £10,000 consolidated £3 per cent. annuities standing in their names, and forming part of the testator's residuary personal estate held by them upon the trusts of the testator's will; and to pay the said £6,000 to such person or persons as shall be certified to be entitled to receive the same.

5. That the costs of the applicants, and all other proper parties, of this application, and consequent thereon, including the investigation of the title to the said hereditaments (except such costs as shall be properly payable by the said G. H.), may be taxed; and that the applicants may be at liberty to raise such costs out of the said annuities; and retain their own costs, and pay the other costs to the parties entitled thereto.

1199.

Affidavit of a surveyor in support of the summons. [Dan. Pr. 1040.]

(*Title and reference to the record.*)

I., J. W., of (*residence*), land surveyor [*or as may be*], make oath and say as follows:

1. I have carried on the business of a land surveyor at —— aforesaid for —— years and upwards last past; and have had, during that period, considerable experience in such business; and I believe myself well qualified to judge of the value of the estate hereinafter mentioned, and of like property in the vicinity thereof.

2. In pursuance of instructions received by me from Messrs. X. & Y., the solicitors in this action for the plaintiff [*or as may be*], I, on the —— day of ——, 188—, on behalf of the said plaintiff [*or as may be*], made a careful survey of the estate mentioned and described in the paper writing marked J. W. 1 (*x*), now produced and shown to me, and purporting to be (*State what; as thus:* the particulars of the Blackacre

(*v*) Where it is shown on the hearing of the application that the title is good, the Court will sometimes approve of it by the order sanctioning the investment: see Dan. Pr. 1039, note (*u*).

(*w*) Where the fund is in Court a certificate of execution is required: Dan. Pr. 1039; and see S. C. Funds Rules, 1884, r. 18.

(*x*) Exhibit same. For form of memorandum of exhibit, see Form 28; and note (*ss*) thereto.

estate, belonging to G. H., situate at, *&c.*), and delineated on the plan, marked J. W. 2, thereunto annexed, and now also produced and shown to me.

3. I believe that the acreage, the gross rental, the annual outgoings, and other particulars of the estate so surveyed by me are correctly set forth in the said paper writing marked J. W. 1, and that the abuttals, boundaries, and subdivisions thereof are correctly delineated on the said plan marked J. W. 2.

4. I have also, in pursuance of the said instructions, made a careful estimate and valuation of the estate so surveyed by me; and in so doing I have taken into consideration the tenure and situation of the said estate, the nature and quality of the land, and what would be a fair price for a purchaser to pay for the said estate as an investment, and in expectation of being able to obtain a similar or better price for the same upon a resale.

5. To the best of my judgment and belief, founded on the survey, estimate, and valuation aforesaid, the said estate is fully and fairly worth, as a present investment, the sum of £——.

6. (*Add the special circumstances, if any, which render the proposed purchase or security desirable.*)

Sworn (*&c.: see* Form 9).

(B.) *The Examination of the Title.*

1200. Affidavit of examination of the abstract of title, by the solicitor (*y*). [Dan. Pr. 1040.]

(*Title and reference to the record.*)

I., A. B., of (*place of business*), gentleman, the solicitor for the plaintiff [*or as may be*] in this action [*or*, matter], make oath and say, as follows:

1. I have carefully examined and compared the abstract, written on —— sheets of paper, produced and shown to me at the time of swearing this affidavit, and marked A. (*z*).

Or, each of the —— abstracts now respectively produced and shown to me, and marked respectively A. B. 1, A. B. 2, *&c.*: the said abstract marked A. B. 1 being written on —— sheets of paper, the said abstract marked A. B. 2 being written on —— sheets of paper, *&c.*, *&c.*

with the several deeds and documents thereby purported to be abstracted.

If not with all, qualify the affidavit accordingly; as thus: except the indenture dated the 9th June, 1860, abstracted at page 11 of the said abstract (marked A. B. 1).

2. The said abstract is a true and correct abstract [*or*, The said abstracts are true and correct abstracts] of the said deeds and documents,

(*y*) This form is adapted from that given in R. S. C. App. L., No. 23.

(*z*) Exhibit same. For form of memorandum of exhibit, see Form 28; and note (*ss*) thereto.

so far as such deeds and documents relate to the hereditaments referred to in an order made in this action [*or* matter] dated the —— day of ——, 188—.

Sworn (*&c.: see* Form 9).

1201. The like, by another person. [Dan. Pr. 1040.]

(*Title and reference to the record.*)

We, A. B., of (*place of business*), gentleman, the solicitor for the plaintiff [*or as may be*] in this action [*or*, matter], and C. D., of the same place, clerk to the said A. B. [*or as may be*], severally make oath and say:

First, I, the said A. B., for myself say, as follows:

1. *Show competency of C. D. to examine the abstract; as thus:* The said C. D. has, for —— years last past, been my managing clerk; and he has had considerable experience in the examination of abstracts of title, and other conveyancing business. In my judgment and belief he was and is fully competent to examine the abstract [*or*, abstracts] of title mentioned in the subsequent parts of this affidavit, with the deeds and documents thereby abstracted.

And I, the said C. D., for myself say, as follows:

2. I have carefully (*Continue as in* Form 1200 *to the end*).

Sworn (*&c.: see* Form 10).

(C.) *Reference to the Conveyancing Counsel* (*a*).

(*a*) *Conveyancing Counsel of the Court.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Reference of matter of title.—Any matter relating to the investigation of the title to an estate with a view to investment in purchase or on mortgage thereof, or with a view to a sale thereof, or to the settlement of a draft of a conveyance, mortgage, settlement, or other instrument, may be referred to the Conveyancing Counsel of the Court	LI. 7.
Objection to opinion.—Any party may object to the opinion given by any Conveyancing Counsel, and the point in dispute will be disposed of by the Judge at Chambers or in Court as he may think fit	,, 8.
Distribution of business.—The business must be distributed by the proper Clerk to the Registrars in regular rotation: he must keep the rota secret, and must keep a record of the references .	,, 9, 10.
Opinion: how obtained.—A memorandum must be signed by the Registrar if the reference is made in Court, or by the Chief Clerk if made in Chambers, and the party prosecuting the order must take such memorandum to the Registrar's Clerk, who must add a note at the foot specifying the name of the Conveyancing Counsel in rotation: with whom the memorandum must then be left	,, 11.
Counsel in rotation unable to act.—In such case the reference must be offered to the other Conveyancing Counsel successively, according to seniority at the bar	,, 12.
Reference to particular Counsel.—The Judge may direct or transfer a reference to any one in particular of the Conveyancing Counsel	,, 13.

	ORDER.
Costs of settling drafts by private counsel.—Will not be allowed in addition to costs of settling by the Conveyancing Counsel, on behalf of same parties, unless expressly directed . . .	LXV. 22.
Fees of Conveyancing Counsel.—Are in the Taxing Master's discretion, subject to appeal	,, 27 (36).

1202.

Memorandum of direction to the conveyancing counsel, to advise on title, and settle draft of conveyance or mortgage. [Dan. Pr. 1040.]

Mr. Justice ——, at Chambers.

(*Short title and reference to the record.*)

Mr. Justice —— has directed that the opinion of the Conveyancing Counsel in rotation [*or as may be* (*b*)] be procured upon the title to the hereditaments by the order of the —— day of ——, 188—, in this action [*or* matter] directed to be inquired into; and, in case such counsel shall be of opinion that a good title is shown, that the draft of the conveyance [*or*, mortgage], by the said order directed to be settled, be perused and settled by such counsel.

Dated this —— day of ——, 188—.

R. M., Chief Clerk.

1203.

Note thereon of name of the conveyancing counsel in rotation (*c*). [Dan. Pr. 1041.]

Mr. D. is the Conveyancing Counsel in rotation.

(*Signature of the Registrar's Clerk.*)

1204.

Certificate verifying copy draft of conveyance or mortgage as settled by the conveyancing counsel. [Dan. Pr. 1041, note (*l*).]

(*Short title and reference to the record.*)

We [*or*, I] certify the above to be a true copy of the draft conveyance [*or*, mortgage—*or as may be*], as settled by Mr. D., the Conveyancing Counsel in this action [*or*, matter], pursuant to the judgment [*or* order] dated the ——, 188—.

A. & B., solicitors for the plaintiff [*or as may be*].

——, 188—.

1205.

Affidavit of examination of the engrossment of the deed (*d*). [Dan. Pr. 1042.]

Formal parts: see Form 6.

1. I have carefully examined and compared the parchment writing, now produced and shown to me at the time of swearing this affidavit, and marked A. B. 1 (*e*),

(*b*) If the reference is made to any one in particular of the Conveyancing Counsel under R. S. C. Ord. LI. 13, say, "the opinion of Mr. A., the Conveyancing Counsel in this action (*or*, matter)" — *or*, "the opinion of Mr. A., one of the Conveyancing Counsel."

(*c*) Where the reference is made to any one of the Counsel by name, this note is of course not required.

(*d*) See R. S. C. Ord. LV. 75; App. L., No. 24. Where a plan forms part of the engrossment, the affidavit should show that such plan is a true copy of the plan approved at Chambers.

(*e*) Exhibit same. For form of memorandum of exhibit, see Form 28; and note (*ss*) thereto.

Or, each of the —— parchment writings now respectively produced and shown to me, and marked respectively A. B. 1, A. B. 3, *&c.*,

with the draft or paper writing now produced and shown to me at the time of swearing this affidavit, and marked A. B. 2 :

Or, with the —— drafts or paper writings now respectively produced and shown to me, *&c.*, and marked respectively A. B. 2, A. B. 4, *&c.* :

being the draft of the conveyance,

Or, being the drafts of the conveyance, and assignment—*or as may be*,

settled at the Chambers of the Judge to whom this action [*or*, matter] is assigned, pursuant to the order made in this action [*or*, matter] dated the —— day of ——, 188—.

2. The said parchment writing marked A. B. 1 is a true and correct transcript and engrossment of the said draft marked A. B. 2.

If so : and the said parchment writing, marked A. B. 3, is a true and correct transcript and engrossment of the said draft marked A. B. 4, *&c.*, *&c.*

1206.

Memorandum of identity of the deed. [Dan. Pr. 1042.]

(*Short title and reference to the record.*)

This is the indenture of conveyance [*or*, mortgage—*or as may be*] referred to in my certificate in this action [*or*, matter], dated the —— day of ——, 188—.

R. M., Chief Clerk.

(D.) *Searches for Incumbrances* (*f*).

(*f*) *Searches.*—There are at present three departments in the Central Office of the Supreme Court in which searches may be made :—

1. *The Department of the Clerk of Enrolments*, for enrolments of (*a*) deeds enrolled under statute ; and (*b*) of documents enrolled merely for preserving evidence ; and (*c*) of recognizances. Enrolments of annuity deeds ceased on 10th August, 1854 (17 & 18 Vict. c. 90), but a memorandum of annuities and rent-charges has now to be entered at the office of the Registrar of Judgments, under 18 & 19 Vict. c. 15.

2. *The Department of the Registrar of Judgments and Married Women's Acknowledgments* (which were formerly two departments, but are now amalgamated), for registry of (1) judgments, Crown debts, lis pendens, inquisitions, and acceptances of office, annuities, and rent-charges, and executions (including orders made in the Queen's Bench Division appointing receivers and operating as equitable execution) ; and (2) certificates of acknowledgments by married women Acknowledgments from 1856 to the present time are registered in this office : see R. S. C. Ord. LXI. 1, 22, 23.

3. *The Department for Bills of Sale*, where are registered bills of sale, warrants of attorney, cognovits, and Judges' consent orders to stay (32 & 33 Vict. c. 62, s. 27) : see R. S. C. Ord. LXI. 25.

The recognizances enrolled by the Clerk of Enrolments are those given to a Judge, Chief Clerk, or Master, or otherwise than to the Crown : such as receivers' recognizances.

The Registrar of Judgments enters a memorandum of each recognizance given to

(i.) *Non-Official Searches.*

1207. Affidavit of result of searches (*ff*). [Dan. Pr. 1042.]

(*Title and reference to the record.*)

I, A. B., of (*place of business*), gentleman, the solicitor for the plaintiff [*or as may be*] in this action [*or*, matter],

the Crown (such as those by officers of customs, excise, &c.) : the solicitor of the Government department retaining the recognizance ; and it is not enrolled.

Under R. S. C. Ord. LXI. 13, the records of all deeds and recognizances enrolled are to be sent to the Public Record Office within two years from the time of enrolment. It follows that search for enrolled deeds and enrolled recognizances, beyond two years prior to the date of search, cannot be made in the Central Office, but must be made by the solicitor himself, or by some one deputed by him, at the Public Record Office ; and no official return as to such search can be obtained.

By s. 2 (1) of the Conveyancing Act, 1882, any person may require a search to be made in the Central Office, for entries of judgments, deeds, or other matters or documents, entries whereof are required or allowed to be made in that office by any Act of Parliament ; and a certificate is to be given by the proper officer of the result of such search. The solicitor, therefore, does not himself make the search, but merely delivers a requisition (see R. S. C. of Dec. 1882, under the Conveyancing Act, Forms 3—6), and obtains an official certificate (*Ibid.*, 7—10).

The Act does not apply to deeds enrolled under any statute or statutory rule (see s. 2, sub-s. (11)) ; and the Central Office is not bound by the Act to give a certificate as to a search for such deeds ; but a return will be given (see Forms 3 and 7) extending over the records remaining in the office ; that is, for not more than two years.

The office seems bound to give a return to a search for deeds enrolled for safe custody, where the records are still in the office.

The Conveyancing Act, 1882, s. 2, does not extend to the Duchy Court of Lancaster ; and where land is within the Duchy, the solicitor must still make all searches in person or by an agent.

Search for judgments of County Courts established under 9 & 10 Vict. c. 95, is unnecessary. Such judgments are not a charge on the freehold or chattel interest of the debtor in land. The only remedy under them is by *fi. fa.* against goods and chattels (9 & 10 Vict. c. 95, s. 94). A County Court judgment cannot be removed into the Supreme Court for the purpose of issuing execution (*Moreton* v. *Holt*, 10 Exch. 707), except (19 & 20 Vict. c. 108, s. 49) where there has been an ineffectual execution against goods and chattels. When so removed it becomes a judgment of the Supreme Court ; and the same rules as to registration and search apply.

In respect of searches of which an official certificate can be obtained, the production of such certificate is sufficient, with an affidavit as to identity of the person searched against. An affidavit is necessary as to making other searches only.

Under the Yorkshire Registries Act, 1884, which includes Kingston-upon-Hull (47 & 48 Vict. c. 54, ss. 3, 20), an official return can be obtained to a search. A solicitor, trustee, &c. (s. 23), is held harmless from any error in the certificate ; but it is not conclusive. A certificate by the Central Office is conclusive under the Conveyancing Act, 1882, s. 2 (3), in favour of a purchaser, except with respect to deeds enrolled under any statute, s. 2 (11) ; so that the right of a purchaser who has obtained a certificate in respect to matters other than deeds enrolled, prevails over the right of a person claiming under any judgment or other act not mentioned in the certificate.

As to searches for incumbrances, see Dan. Pr. 1042 ; and note (*p*) ; Dart, V. & P., vol. I., p. 455 ; Wolstenholme and Turner on the Conveyancing Acts, pp. 133—136.

(*ff*) The conveyancing counsel should always specify in his opinion on the title, what searches are to be made, and against whom. Form 1207 is framed to meet almost every case where a search may be necessary ; but the clauses to be used in

Or, I, C. D., of, *&c.*, clerk to Mr. A. B., of (*&c.; as above*), make oath and say as follows :—

Enrolments in the Central Office which have been transferred to the Public Record Office.

1. No statute or recognizance : nor any memorial thereof : against E. F. and G. H., or either of them : and no assurance or disposition of lands by the said E. F. and G. H., or either of them, under the Statute 3rd & 4th William the 4th, chapter 74 (*g*) : and no consent of the said E. F. and G. H., or either of them, as the protector of a settlement, to the disposition of a tenant in tail, under the last-mentioned Act : appears from the —— day of ——, 18—, to the —— day of ——, 18—, both days inclusive, on the records of enrolments sent to the Public Record Office from the Enrolment Department of the Central Office of the Supreme Court of Judicature :

If so : except the statutes [*or as may be*] specified in the —— part of the schedule hereto :

as I know from having, on the —— day of ——, 188—, carefully searched at the Public Record Office in the records of enrolments sent there from the Enrolment Department of the Central Office.

Middlesex registry (*h*).

2. No deed, or other document, or incumbrance, nor any memorial thereof : executed or created by or against the said E. F. and G. H., or either of them, affecting : and no judgment, statute, or recognizance affecting : any honours, manors, lands, or hereditaments,

Or, the honours, manors, lands, and hereditaments [*or as may be*] in the order in this action [*or*, matter] dated the —— day of ——, 188—, mentioned, or any of them,

of the said E. F. and G. H., or either of them, in the county of Middlesex, has been registered from the —— day of ——, 18—, to the —— day of ——, 18—, both days inclusive, in the books kept for that purpose by the Registrar of deeds and so forth for the said county, pursuant to the statutes in that behalf :

If so : except the documents or acts abstracted or shown in the abstract of title now produced and shown to me, and marked A. ; and except the documents or acts [*or as may be*] specified in the —— part of the schedule hereto :

as I know from having, on the —— day of ——, 188—, carefully searched the said books at the office of the said Registrar.

Search in Court Rolls.

3. From the —— day of ——, 18—, to the —— day of ——, 18—, both days inclusive, no deed, surrender, admittance, or other document : nor any act by or against the said E. F. and G. H., or either of them : affecting any copyhold or customary lands or hereditaments, parcel of the manor of ——, in the county of ——,

Or, the copyhold or customary lands and hereditaments in the order in this action [*or*, matter] dated the —— day of ——, 188—, mentioned, or any of them,

has been registered or entered on the court rolls of the said manor :

If so : except the documents or acts abstracted or shown in the

the particular case will of course depend upon the searches actually made under the advice of the conveyancing counsel.

(*g*) See 3 & 4 Will. IV. c. 74, ss. 41, 46.

(*h*) See 7 Anne, c. 20 ; 26 & 27 Vict. c. 12.

abstract of title now produced and shown to me, and marked B.;

If so: and except the documents or acts specified in the —— part of the schedule hereto:

as I know from having, on the —— day of ——, 188—, carefully searched the Court Rolls of the said manor produced to me at —— by A. B., the steward for the said manor of C. D., the lord of the said manor.

4. Since the —— day of ——, 188—,

Or, From the —— day of ——, 188—, to the —— day of ——, 188—, both days inclusive,

no receiving order has been made for the protection of the estate of the said E. F. and G. H., or either of them: nor has there been any adjudication of bankruptcy against them, or either of them: under the Bankruptcy Act, 1883:

Receiving order and adjudication under Bankruptcy Act, 1883 (*i*).

If so: except as appears in the —— part of the schedule hereto:

as I know from having carefully searched a complete file of the London Gazette, from the —— day of ——, 188—, to the —— day of ——, 188—, both days inclusive, for the notice of any such order or adjudication.

5. Since the —— day of ——, 188—,

Or, From the —— day of ——, 188—, to the —— day of ——, 188—, both days inclusive,

no order with reference to a composition or scheme of arrangement with the creditors of the said E. F. and G. H., or either of them, has been [*or*, was] made under the provisions of the Bankruptcy Act, 1883.

Composition or scheme of arrangement in Bankruptcy, under the Act of 1883 (*j*).

If so: except as appears in the —— part of the schedule hereto:

as I know from having, on the —— day of ——, 188—, carefully searched the proper books and records kept for that purpose at the office of the Senior Bankruptcy Registrar of the High Court of Justice, situate in Lincoln's Inn Fields in the county of Middlesex [*or, if the search is made in a Court out of London exercising jurisdiction in bankruptcy, say:* from having on, *&c.*, carefully searched the proper books kept for that purpose at the County Court of ——, holden at ——].

6. From the —— day of ——, 18—, to the —— day of ——, 18—, both days inclusive, the said E. F. and G. H. were not, nor was either of them, adjudged bankrupt: nor was any petition filed for an adjudication of bankruptcy against them, or either of them: under the Acts then in force relating to bankruptcy:

Bankruptcies under the Acts of 1849, 1861, or 1869.

If so: except as appears in the —— part of the schedule hereto:

as I know from having, on the —— day of ——, 188—, carefully searched the proper books and records kept for that purpose at the said office of the Senior Bankruptcy Registrar of the High Court of Justice.

(*i*) As to receiving orders, see 46 & 47 Vict. c. 52, ss. 5—14. As to adjudication, see *Ibid.*, ss. 20—23. As to protection of *bonâ fide* purchasers without notice of any act of bankruptcy by the vendor, see *Ibid.*, s. 49 (*c*) (1).

(*j*) See 46 & 47 Vict. c. 52, ss. 18, 19.

Bankruptcies prior to 11th Oct., 1849.

7. From the —— day of ——, 18—, to the —— day of ——, 18—, both days inclusive, no fiat in bankruptcy was issued, under the Acts then in force relating to bankruptcy, against the said E. F. and G. H., or against either of them:

If so: except as appears in the —— part of the schedule hereto:

as I know from having, on the —— day of ——, 188—, carefully searched the proper books and records kept for that purpose at the said office of the Senior Bankruptcy Registrar.

Creditors' deeds, &c., under the Acts of 1861 or 1869.

8. From the —— day of ——, 18—, to the —— day of ——, 18—, both days inclusive, no deed of arrangement, composition, inspectorship, or other deed, instrument, or agreement whatsoever, made or entered into between the said E. F. and G. H., or either of them, and their or his creditors, or any trustee on behalf of such creditors, under the provisions of "The Bankruptcy Act, 1861" (*k*), is registered in the books kept pursuant to such provisions: and from the —— day of ——, 18—, to the —— day of ——, 18—, no petition or resolution for liquidation by arrangement of the affairs of the said E. F. and G. H., or either of them, or for a composition arrangement between them, or either of them, and their or his creditors, under the provisions of "The Bankruptcy Act, 1869" (*l*): is filed or registered in the books kept pursuant to such provisions:

If so: except the deeds [*or as may be*] specified in the —— part of the schedule hereto:

as I know from having, on the —— day of ——, 188—, carefully searched the proper books and records kept for that purpose at the said office of the Senior Bankruptcy Registrar.

Insolvency before 1861 (*m*).

9. From the —— day of ——, 18—, to the —— day of ——, 18—, both days inclusive, no order vesting the real and personal estate and effects of the said E. F. and G. H., or either of them, in the Provisional Assignee of the Estates and Effects of Insolvent Debtors in England was made: and no assignee of the estate and effects of the said E. F. and G. H., or either of them, was appointed: by the late Court for the relief of Insolvent Debtors in England:

If so: except as appears in the —— part of the schedule hereto:

as I know from having, on the —— day of ——, 188—, carefully searched in the proper books and records kept for the entry or registry of such orders and appointments at the said office of the Senior Bankruptcy Registrar.

Land improvement rent-charges (*n*).

10. From the —— day of ——, 18—, to the —— day of ——, 18—, both days inclusive, no memorial of any absolute order of the late Inclosure Commissioners, or of the Land Commissioners for England, in pursuance of "The Improvement of Land Act, 1864": or of

(*k*) 24 & 25 Vict. c. 134: see ss. 187, 192—194; repealed by 32 & 33 Vict. c. 83, s. 20, from 1st Jan. 1870.

(*l*) 32 & 33 Vict. c. 71, ss. 125, 126.

(*m*) See 24 & 25 Vict. c. 134, s. 27.

(*n*) See 27 & 28 Vict. c. 114, ss. 56, 69.

any order of the said Commissioners apportioning a charge, or releasing or exempting lands from a charge, in pursuance thereof: is registered at the office of the Land Registry in England, in the names of the said E. F. and G. H., or either of them, as the landowners or landowner:

If so: except as appears in the —— part of the schedule hereto: as I know from having, on the —— day of ——, 188—, carefully searched in the proper books kept for the entry or registry of such orders, at the office of the said Land Registry.

Search in Palatine Court of Lancaster (*o*).

11. No judgment, decree, order, rule, lis pendens, or writ or other process of execution: nor any memorandum or minute thereof respectively: is entered or registered from the —— day of ——, 18—, to the —— day of ——, 18—, both days inclusive, against, or in the name of the said E. F. and G. H., or either of them, in the books kept for that purpose at the office of the Prothonotary of the Court of Common Pleas at Lancaster, pursuant to the statutes in that behalf:

If so: except the writs of execution [*or as may be*] specified in the —— part of the schedule hereto: as I know from having, on the —— day of ——, carefully searched the said books at the office of the said Prothonotary.

Search in Common Pleas at Lancaster (*o*).

12. No judgment, decree, or order, obtained by or on behalf of the Crown: or recognizance entered into on the proper account of the Crown: or inquisition finding a debt due to the Crown: or obligation or specialty made to the Crown: or acceptance of office from or under the Crown: or writ of extent or other writ or process of execution in pursuance of, or in relation to, any such judgment, decree, order, recognizance, inquisition, obligation, specialty, or acceptance of office: nor any memorandum or minute thereof respectively: is entered or registered from the —— day of ——, 18—, to the —— day of ——, 18—, both days inclusive, against the said E. F. and G. H., or either of them, in the books kept for that purpose at the office of the Prothonotary of the Court of Common Pleas at Lancaster pursuant to the statutes in that behalf:

If so: except the judgments [*or as may be*] specified in the —— part of the schedule hereto: as I know from having, on the —— day of ——, carefully searched the said books at the office of the said Prothonotary.

Identity of persons against whom searches made.

13. E. F. and G. H., hereinbefore named, are respectively the same persons as the persons of those respective names who are mentioned or referred to in the opinion dated the —— day of ——, 188—, of Mr. A., the Conveyancing Counsel on the title to the hereditaments inquired into pursuant to the order in this action [*or*, matter], dated the —— day of ——, 188—.

Or, in the certificate of search for (*describe what*), dated the —— day of ——, 188—, issued by the Central Office of the Supreme Court;

(*o*) See 1 & 2 Vict. c. 110, s. 21; 18 & 19 Vict. c. 15, ss. 2, 3, 9; 23 & 24 Vict. c. 38, s. 2; 27 & 28 Vict. c. 112.

Or, in the certificate of search dated, *&c.*, issued by the Registrar of Deeds for, *&c.*

Sworn (*&c.*: *see* Form 9).

The Schedule above referred to.

[*Set out the particulars of such entries, if any, as may be found; and divide the Schedule into parts, as above suggested.*]

(ii.) *Official Searches under Conveyancing Act*, 1882 (*p*).

1208.

Declaration as to purposes of search, by separate instrument (*q*).

Supreme Court of Judicature,
Central Office.
To the Clerk of Enrolments,
Or, To the Registrar of Judgments [*or*, Bills of Sale—*or*, Certificates of Acknowledgments of Deeds by Married Women].
Royal Courts of Justice, London.

In the matter of A. B. and C. D.

I declare that the search [*or*, searches] in the name [*or*, names] of ——, required to be made by the requisition for search, dated the —— day of ——, 188—, is [*or*, are] required for the purposes of a sale [*or*, mortgage—*or*, lease, *or as may be*] by A. B. to C. D.

(*Signature, address, and description of the person requiring the search.*)

Dated the —— day of ——, 188—.

1209.

Declaration as to purposes of search, when contained in the requisition (*r*).

I declare that the above-mentioned search is required for the purposes of a sale [*or*, mortgage—*or*, lease, *or as may be*] by A. B. to C. D.

1210.

Requisition for search in the enrolment office (*s*).

Supreme Court of Judicature,
Central Office.
To the Clerk of Enrolments,
Royal Courts of Justice, London.

In the matter of A. B. and C. D.

Pursuant to section 2 of the Conveyancing Act, 1882, search for deeds

(*p*) See 45 & 46 Vict. c. 39, s. 2; and R. S. C. thereunder, December, 1882.

(*q*) See 45 & 46 Vict. c. 39, s. 2 (4); and R. S. C. Dec. 1882, 2; App. Form No. 1. The declaration is to be signed by the person requiring the search to be made, or by a solicitor. It may be made in the requisition, or in a separate document.

(*r*) See R. S. C. Dec. 1882, 2; App. Form No. 2.

(*s*) See R. S. C. Dec. 1882, 3; App. Form No. 3. For form of certificate of search, *Ibid.*, No. 7: see also R. S. C. 1883, Ord. LXI. 23. A fee of 5*s.* is payable on the request for search in one name, and certificate, and 2*s.* for each additional name; and for a duplicate or an office copy of the certificate of search, if not more than three folios, a fee of 1*s.* is payable, and for every additional folio 6*d.*: Ord. as

and other documents enrolled during the period from ——, 18—, to ——, 18—, both inclusive, in the following name [*or*, names]:—

Surname.	Christian Name or Names.	Usual or last known Place of Abode.	Title, Trade, or Profession.

(*Add declaration*, Form 1209.)

(*State if an office copy of the certificate is desired, and whether it is to be sent by post or called for.*)

(*Signature, address, and description of person requiring search* (*t*).)

Dated the —— day of ——, 188—.

1211.

Requisition for search in the bills of sale department (*u*).

Supreme Court of Judicature,
Central Office.
To the Registrar of Bills of Sale,
Royal Courts of Justice, London.

In the matter of A. B. and C. D.

Pursuant to section 2 of the Conveyancing Act, 1882, search for instruments registered or re-registered as bills of sale during the period from ——, 18—, to ——, 18—, both inclusive, in the following name [*or*, names].

(*Schedule and conclusion ; as in* Form 1210.)

1212.

Requisition for search in the registry of certificates of acknowledgments of deeds by married women (*v*).

Supreme Court of Judicature,
Central Office.
To the Registrar of Certificates of Acknowledgments of Deeds by Married Women,
Royal Courts of Justice,
London.

In the matter of A. B. and C. D.

Pursuant to section 2 of the Conveyancing Act, 1882, search for Cer-

to Court Fees, Dec. 1882 ; Ord. as to S. C. Fees, 1884, Sched. Nos. 114—117. As to the effect of the certificate, see 45 & 46 Vict. c. 39, s. 2 (3), (8), (9), (10), (11). Every person, upon payment of the prescribed fee, is entitled to have a copy of the whole or any part of any deed or document enrolled in the Enrolment Department of the Central Office : R. S. C. Dec. 1882, 5.

(*t*) See 45 & 46 Vict. c. 39, s. 2 (4) ; R. S. C. Dec. 1882, 1.

(*u*) See R. S. C. Dec. 1882, 3 ; App. Form No. 4. For form of certificate of search, *Ibid.*, No. 8. See also R. S. C. 1883, Ord. LXI. 23 (*a*). For fees payable and as to the effect of the certificate, see note (*s*), *supra*.

(*v*) See R. S. C. Dec. 1882, 3 ; App. Form No. 5. For form of certificate of

tificates of Acknowledgments of Deeds by Married Women during the period from ——, 18—, to ——, 18—, both inclusive, according to the particulars mentioned in the schedule hereto.

THE SCHEDULE.

Surname.	Christian name or names of wife and husband.	Date of the certificate, if the search relates to a particular certificate.	Date of deed, if the search relates to a particular deed.	County, parish, or place in which the property is situate, or other description of the property.

(*Conclude as in* Form 1210.)

1213. Requisition for search in the registry of judgments (*w*).

Supreme Court of Judicature,
Central Office.
To the Registrar of Judgments,
Royal Courts of Justice, London.

Pursuant to section 2 of the Conveyancing Act, 1882, search for judgments, revivals, decrees, orders, rules, and lis pendens, and for judgments at the suit of the Crown, statutes, recognizances, Crown bonds, inquisitions, and acceptances of office, for the period from ——, 18—, to ——, 18—, both inclusive, and for executions for the period from the 29th July, 1864 [*or as the case may require*], to the —— day of —— 188—, both inclusive, and for annuities and rent-charges for the period from the 26th April, 1855 [*or as the case may require*], to the —— day of ——, 18—, both inclusive, in the following name [*or*, names].

(*Schedule, and conclusion, as in* Form 1210.)

---

search, see *Ibid.* No. 9. See also R. S. C. 1883, Ord. LXI. 23 (*b*). For fees payable, and as to the effect of the certificate, see note (*s*), *supra*. As to acknowledgments by married women, see 3 & 4 W. IV. c. 74, ss. 85, 87, 89; 20 & 21 Vict. c. 57, s. 1; 25 & 26 Vict. c. 96; 45 & 46 Vict. c. 39, s. 7; R. S. C. Dec. 1882, under 3 & 4 W. IV. c. 74, and 45 & 46 Vict. c. 39, s. 7; Ord. as to Court Fees, Dec. 1882.

(*w*) See R. S. C. Dec. 1882, 3; App. Form No. 6. For form of certificate, *Ibid.*, No. 10. See also R. S. C. 1883, Ord. LXI. 23 (*c*). For fees payable, and as to the effect of the certificate, see note (*s*), *supra*. As to registration of judgments, see 1 & 2 Vict. c. 110; 2 & 3 Vict. c. 11. As to registration of a lis pendens, see 2 & 3 Vict. c. 11, s. 7. As to registration of executions, see 23 & 24 Vict. c. 38; 27 & 28 Vict. c. 112. As to registration of Crown debts, see 2 & 3 Vict. c. 11, ss. 8—11; 22 & 23 Vict. c. 35, s. 22; 23 & 24 Vict. c. 115; 28 & 29 Vict. c. 104, ss. 48, 49. As to annuities and rent-charges, see 18 & 19 Vict. c. 15, s. 12.

1214.
Requisition for continuation of search (*x*).

Supreme Court of Judicature,
Central Office.

To the Clerk of Enrolments [*or*, The Registrar of Judgments—*or as may be*].

Royal Courts of Justice, London.

In the Matter of A. B. and C. D.

Pursuant to section 2 of the Conveyancing Act, 1882, continue the search for judgments, &c., made pursuant to the requisition dated the —— day of ——, 188—, in the name [*or*, names] of ——, from the —— day of ——, 188—, to the —— day of —— 188—, both inclusive.

(*Signature, address, and description of person requiring the search.*)

Dated the —— day of ——, 188—.

(E.) *Certificate of Title.*

1215.
Chief Clerk's certificate of result of inquiry as to title, and of the settlement (and execution) of the deed (*y*). [Dan. Pr. 1042.]

Formal parts: see Form 1410.

A good title can be made to the hereditaments in the order dated the —— day of ——, 188—, in this action [*or*, matter] mentioned.

A proper conveyance [*or*, mortgage—*or as may be*] of the said hereditaments has been settled: consisting of an indenture (intended to be) made between (*Describe the parties, as in the deed*); and which indenture is identified by my signature in the margin of the engrossment thereof.

The said B. A. and D. C. are the parties by whom the said indenture is to be executed before a sale is made of the consolidated £3 per cent. annuities by the said order directed to be sold [*or other contingency mentioned in the order*].

Or, if the deed is executed by those parties before the certificate is made (*z*), *say:* The said B. A. and D. C.: who were the only parties to execute the said indenture before a sale (*&c.: as above*): have respectively duly executed the said indenture.

The said B. A. and D. C. are the parties entitled to receive the sum of £6,000 in the said order mentioned: to be raised in manner thereby directed. The said £6,000 is to be paid to the said B. A. and D. C. jointly.

Or, in the following proportions, namely, £4,000 part thereof to the said B. A., and £2,000 residue thereof to the said D. C.

The evidence produced, *&c.*

(*x*) See R. S. C. Dec. 1882, 4; App. Form No. 11. For form of certificate of result of search by indorsement, see R. S. C. Dec. 1882, App. Form No. 12. A fee of 1*s.* is payable for a continuation search: see Ord. as to Court Fees, Dec. 1882; Ord. as to S. C. Fees, 1884, Sched. No. 118.

(*y*) Where enrolment is required, the certificate of execution should not be issued till the conveyance has been left at the Enrolment Office, and the receipt of the Clerk of Enrolments is produced. A fee is payable of 2*s.* for every £100, or fraction of £100, of the purchase-money, on approval of the purchase of any land or hereditaments, or of the title to any land or hereditaments, to be purchased pursuant to an order in any cause or matter with money under the control of the Court therein: Ord. as to S. C. Fees, 1884, Sched. No. 70; and see *Ibid.*, pp. 12—14. The stamps for the fee may be impressed or adhesive: Ord. as to Fees, &c., July, 1884, p. 9.

(*z*) See Dan. Pr. 1042, note (*t*); and see S. C. Funds Rules, 1884, r. 18.

1216.

Affidavit of execution of the deed. [Dan. Pr. 1042.]

Formal parts: see Form 6.

1. I saw B. A. and D. C., two of the parties to the indenture of conveyance [*or*, mortgage—*or as may be*], dated the —— day of ——, 188—, now produced and shown to me, and marked A. (*a*),

If so: being the indenture mentioned in the Chief Clerk's certificate in this action [*or*, matter] dated the —— day of ——, 188—,

duly sign, seal, and as their respective acts and deeds deliver the said indenture.

2. The signatures "——," and "——," set and subscribed to the said indenture, as two of the parties executing the same, are of the respective proper handwritings of the said B. A. and D. C.

3. The signature "——" set and subscribed to the attestation indorsed on the said indenture, of the execution thereof by the said B. A. and D. C., is of my proper handwriting.

1217.

Certificate of execution of the deed (*b*). [Dan. Pr. 1042.]

Formal parts: see Form 1410.

B. A. and D. C., in my certificate in this action [*or*, matter] dated the —— day of ——, 188—, respectively named, have respectively duly executed the indenture of conveyance [*or*, mortgage—*or as may be*] in such certificate mentioned to have been settled, and to be an indenture to be executed by them respectively.

The evidence produced, *&c.*

(11.) *Accounts* (*b*).

(*Dan. Pr.*, pp. 1043—1062, ccexcii.)

(*b*) *Accounts.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Special directions as to taking accounts.—May be given either by the judgment or order directing the account, or by any subsequent order, and books of account in which the accounts have been kept may be directed to be taken as *primâ facie* evidence of the truth of the matters therein contained . .	XXXIII. 3.
Account to be verified.—Where an account is directed, the accounting party must make out the same and verify it by affidavit. The items on each side must be numbered consecutively, and the account must be referred to by the affidavit as an exhibit, and be left in Chambers	,, 4.
Surcharge.—Any party seeking to charge any accounting party beyond what he has by his account admitted must give notice thereof, stating the amount sought to be charged, and the particulars, shortly and succinctly	,, 5.
Outstanding estate.—Every judgment or order for a general account of the personal estate of a testator or intestate must contain an inquiry what parts of such estate are outstanding or undisposed of	,, 6.
Numbering accounts and inquiries.—Accounts and inquiries must be numbered	,, 7.

(*a*) Exhibit same. For form of memorandum of exhibit, see Form 28.

(*b*) See S. C. Funds Rules, 1884, r. 18.

	Order.
Just allowances.—In taking an account all just allowances may be made without any direction for that purpose . .	XXXIII. 8.
Delay in prosecution of accounts.—In case of undue delay, the party having conduct may be called upon to explain such delay, and all necessary directions for expediting the proceedings may be given	,, 9.
Alterations in accounts.—Must be initialled by the commissioner before whom the affidavit verifying the same is sworn	XXXVIII. 22.
Certificate of Chief Clerk.—Where an account is directed, the certificate must state the result of the accounts in the body thereof, and not by way of schedule; and the accounts must be filed	LV. 68.

1218. Direction for a short or four-day order to issue, to leave accounts and statements, where a summons to proceed has been heard (*c*). [Dan. Pr. 1044.]

Mr. Justice ——, at Chambers. } ——, 188—.

Appeared: (*State who appeared on the application for the direction; as thus:*

Mr. A., for the plaintiff.

Mr. B., for the defendant C. D.

Mr. E., for F. G., having liberty to attend the proceedings.)

Read: Judgment [*or*, Order (*directing the accounts and inquiries*)], dated ——, 188—.

Mr. Justice —— orders, that the defendant C. D. [*or as may be*] do, on or before the —— day of ——, 188—, or subsequently within four days after service, leave at his Chambers the following accounts and statements, duly verified by affidavit; namely: (*Set out the accounts and inquiries in the words of the judgment or order, and with the like numbers attached: substituting* "a statement" *for* "an inquiry").

R. M., Chief Clerk.

To the Registrar, Mr. L.

(*c*) For form of order, see 2 Seton, 1643, No. 7. The Registrars request that this direction may be indorsed on the summons to proceed, instead of being issued as a separate document. As to the species of accounts taken at Chambers, see Dan. Pr. 1043; and see as to accounts in the following cases:—guardians of infants' estates, Dan. Pr. 1122—1131; mortgagees, Dan. Pr. 1386—1411; partners, Dan. Pr. 1493—1507; receivers, managers, and consignees, Dan. Pr. 1703—1714; and executors and trustees, Dan. Pr. 1046—1048. As to the cross-examination of accounting parties upon their accounts, see Dan. Pr. 1049, 1050; the cross-examining party must give notice of the items to which the cross-examination will be directed: *Bates* v. *Elcy*, 1 Ch. D. 473. As to the employment of accountants, see Dan. Pr. 1050. As to referring the account to be taken before a referee, see Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 57. As to taking accounts in a District Registry, where so ordered by the Court or a Judge, see Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 66. On taking an account, a fee is payable of 1*s.* for every 100*l.* or fraction of 100*l.* of the amount found to have been received, up to 200,000*l.*, without deducting any payment: Ord. as to S. C. Fees, 1884, Sched. No. 72. These fees are payable by stamps impressed on or adhesive to the certificate of the result of the accounts: Ord. as to Fees, &c., July, 1884, p. 9. In the case of periodical accounts, the percentage will, upon payment, be allowed in the accounts: Ord. as to S. C. Fees, 1884, Sched. p. 13.

1219.

Summons for a short or four-day order to leave accounts and statements. [Dan. Pr. 1044.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the defendant C. D. [*or as may be*] may be ordered, within four days after service, to leave in my Chambers the following accounts (*Continue as in* Form 1218, *to the end*).

1220.

Summons for further time to leave accounts (*d*). [Dan. Pr. 1045.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that he may have until the —— day of ——, 188—, to leave at my Chambers the accounts and statements, verified by affidavit, directed to be left by him thereat, pursuant to the judgment [*or*, order], dated the —— day of ——, 188—.

1221.

Notice of motion or summons for leave to issue an attachment for not leaving accounts. [Dan. Pr. 1044.]

The same as Form 993, *describing the contempt correctly; as thus:*

"in not leaving at the Chambers of Mr. Justice ——, situate in the Royal Courts of Justice, the following accounts and statement duly verified by affidavit; that is to say: 1. An account of, *&c.*; 2. A statement of, *&c.*

1222.

Affidavit in support of attachment for not leaving accounts.

Formal parts: see Form 6.

1. On the —— day of ——, 188—, I served the defendant C. D. [*or as may be*], with the order made in this action [*or*, matter] by his lordship Mr. Justice ——, dated the —— day of ——, 188—, whereby it was ordered that (*Recite the directory parts of the order*): by delivering a true copy of the said order to, and leaving the same with, the defendant C. D. [*or as may be*], at (*State where*), in the (county) of ——; and I at the same time showed to him the said original order, duly passed and entered.

2. The copy served as aforesaid of the said order had indorsed thereon, at the time of the aforesaid service thereof, a memorandum in the words following; that is to say: (*Set out a copy of the memorandum*).

3. *Prove that the order has not been obeyed; as thus:* I have this —— day of ——, 188—, searched the notes kept of proceedings in this action [*or*, matter] at the Chambers of Mr. Justice —— (*e*); and it appears from such notes, and also from inquiries I have made of the clerks attached to the said Chambers, and I verily believe the fact to be, that the said accounts and statements directed by the said order of

(*d*) The application should be supported by an affidavit, showing due diligence, and that further time is necessary. No summons should be issued unless an order has been made and served limiting a time to leave the account; but the practice on this point is not uniform: see Dan. Pr. 1044, note (*t*).

(*e*) See R. S. C. Ord. LV. 73.

the —— day of ——, 188—, to be left at the said Chambers by the said defendant C. D. [*or as may be*] have not, nor has any of them, been left at the said Chambers.

1223. *Præcipe* for writ of attachment.

(*Same as* Form 995.)

1224. Writ of attachment.

(*Same as* Form 996.)

1225. Indorsement of name and address of party issuing writ.

(*Same as* Form 998 *or* 999.)

1226. Petition of course, for discharge from custody, on leaving accounts (*f*). [Dan. Pr. 1044.]

Formal parts: see Form 39.

The humble petition of the defendant C. D. [*or as may be*]. Showeth as follows:

1. By an order made in this action [*or*, matter], dated the —— day of ——, 188—, your petitioner was directed to leave at the Chambers of Mr. Justice ——, duly verified by affidavit, certain accounts and statements therein specified.

2. On the —— day of ——, 188—, your petitioner was arrested on an attachment issued against him for his contempt in not leaving the said accounts and statements; and he is now in the custody of the keeper of Holloway prison [*or as may be*], for such contempt.

3. Your petitioner has now left the said accounts and statements at the said Chambers; and has filed an affidavit duly verifying the same: as appears by the certificate of the Chief Clerk of the said Judge, indorsed hereon.

Your petitioner therefore humbly prays, that he may be discharged from the said custody, touching his said contempt: upon payment or tender of the costs thereof to the (plaintiff's) solicitor or agent.

1227. Certificate of accounts having been left. [Dan. Pr. 1044.]

Mr. Justice ——'s Chambers. } ——, 188—.

I certify that the within-named petitioner has left at these Chambers the within-mentioned accounts and statements, pursuant to the within-recited order of the —— day of ——, 188—; and has filed an affidavit verifying the same.

R. M., Chief Clerk.

(*f*) For order in like case, see *Re Moreton, Hopcroft* v. *Moreton*, M. R., 18 July, 1870, Rolls' Lib. The order will not be made on a petition of course, unless the petition is indorsed with, or accompanied by, a certificate to the effect of Form 1227. In other cases, the application must be made by motion of course: see Form 1228; supported by affidavit: see Form 1229; or by *ex parte* summons: see Form 1230.

1228.

Motion paper, for discharge from custody on leaving accounts. [Dan. Pr. 1044.]

Formal parts: see Form 36.

To move on behalf of the defendant C. D. [*or as may be*], that he may be discharged from Holloway prison [*or as may be*], touching his contempt for not leaving certain accounts and statements at the Chambers of Mr. Justice ——, pursuant to the order dated ——, 188—: upon payment or tender of the costs of contempt to the (plaintiff's) solicitor or agent: the accounts and statements being now left.

An office copy of the order and affidavit in support accompany.

1229.

Affidavit in support. [Dan. Pr. 1044.]

Formal parts: see Form 6.

1. The several accounts and statements which, by order made in this action [*or*, matter] dated the —— day of ——, 188—, the defendant C. D. [*or as may be*] was ordered to leave, duly verified by affidavit, at the Chambers of Mr. Justice ——, were left at the said Chambers on the —— day of ——, 188—; and an affidavit of the said defendant C. D. [*or as may be*], duly verifying the said accounts and statements, was filed in the Central Office on the —— day of ——, 188—, pursuant to the said order: as I know (*Show means of knowledge; as thus:* from having left the said accounts and statements, and filed the said affidavit, in manner aforesaid).

2. The defendant C. D. [*or as may be*] is now in the custody of the keeper of Holloway prison [*or as may be*], under an attachment for contempt in not leaving the said accounts and statements, pursuant to the said order: as I know from (*Show means of knowledge*).

1230.

Summons for discharge from custody, on leaving accounts. [Dan. Pr. 1044.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant C. D. [*or as may be*], that he may be discharged (*Continue as in* Form 1228, *down to* solicitor or agent).

1231.

Affidavit by joint executors and trustees verifying their accounts, and answering the usual inquiries, as to real and personal estate (*g*). [Dan. Pr. 1046—1048.]

(*Title and reference to the record.*)

We, A. B., of (*Place of abode and description*), C. D., of, *&c.*, and E. F.,

(*g*) For this Form, see R. S. C. Ord. LV. 75; App. L., No. 11. This form of affidavit, as far as applicable, must be strictly adhered to; and great responsibility will attach to solicitors if they do not frame their accounts and affidavits properly: as defects may occasion the committal of their clients, where an order has been made to leave the accounts: see Bloxam, 48. For further remarks as to the preparation of the affidavit and accounts, see Dan. Pr. 1045—1049. For forms of administration judgments, see 2 Seton, 801—1003; and against derivative executors and administrators, 2 Seton, 880—885. See, as to the following points:—Appointment of executors, succession to the executorship, and renunciation of the office: Dan. Pr. 239—241; Dodd and Brooks, 296—318—323—331; 1 Williams' Exors., 232—291; 1 Seton, 808—813. Probate: Dodd and Brooks, 337—392; 1 Williams' Exors., 292—406. Letters of administration: Dodd and Brooks, 323—517; 1

of, &c., the above-named defendants [*or as may be*], severally make oath and say, as follows :—

1. We have, according to the best of our knowledge, information, and belief, set forth in the first schedule hereto, a full account and inventory of the personal estate of or to which G. H., the testator, in the judgment [*or*, order], dated the —— day of ——, 188—, made in this action [*or*, matter], named, who died on the —— day of ——, 188—, was possessed or entitled at the time of his death. (1.) Inventory of personal estate at death (*h*). [Dan. Pr. 1046.]

If the judgment or order directs only an account of personal estate not specifically bequeathed, add: and not by him specifically bequeathed.

2. Save what is set forth in the said first schedule,

If so: and what is by the said testator specifically bequeathed,

the said testator was not, to the best of our knowledge, information, or belief, at the time of his death possessed of, or entitled to, any debt or sum of money due to him from us, or any of us, on any account whatsoever, nor to any leasehold or other personal estate whatsoever.

3. The said testator's funeral expenses have been paid. The same (2.) Funeral expenses (*i*). [Dan. Pr. 1047.]

Williams' Exors., 407—555. Confirmations and amendments of grants: Dodd and Brooks, 518—536—538. Surrender and revocation of grants: *Ibid.*, 539—556. Stamp duties on probate and letters of administration: Dodd and Brooks, 564—586, 1192—1195, 1243; Williams' Exors., 602 *et seq.*; Trevor on Taxes, 4—48. Legacy duty: Williams' Exors., 1556 *et seq.*; Trevor on Taxes, 49—145. Succession duty: Williams' Exors., 1556; Trevor on Taxes, 146—206. For the regulations of the Inland Revenue Office, forms and tables, see Trevor, 207—298. For the cases, and forms of judgments and orders, on the following subjects connected with the accounts of executors, administrators, and trustees, see: Account and admission of assets: 2 Seton, 803, No. 4, 804, No. 5, 854, No. 20, 860, 861, 894, No. 1; Ram on Assets, 663—66. Appropriation and assent: 2 Seton, 860—862. Breach of trust: 1 Seton, 455—480. Charging with interest: *Ibid.*, 473, 474, 478, 479. Concurrence: *Ibid.*, 466—472. Costs and expenses: *Ibid.*, 481—486. Discharge and indemnity: *Ibid.*, 458, 459, 462, 483, 502. Payments: *Ibid.*, 861, 885. Retainer: *Ibid.*, 892—894; 2 Williams' Exors., 1045—1054; Ram, 339—350. Wilful default: 2 Seton, 472—477.

(*h*) The first schedule to the affidavit should show the state of the assets at the testator's death; the second, at the time the affidavit is sworn; and the account of personal estate, verified by the affidavit, should disclose all the receipts and payments in respect of the assets between those periods. Thus, where a testator leaves a sum of bank stock, which the executor afterwards sells, and invests the proceeds in consols: the bank stock will appear in the first schedule; the proceeds of the sale on the debit side of the account; the cost of the consols on the credit side; and the amount of the consols will form an item in the second schedule, as an asset outstanding or undisposed of. As to the personal estate which an executor or administrator is entitled to receive, *virtute officii*, see 2 Williams' Exors., 1662—1692; 2 Seton, 817—819; Dodd and Brooks, 564—577.

(*i*) As to the amount allowable for funeral expenses, see Dan. Pr. 1047, note (*h*), and cases there cited; 2 Williams' Exors., 972—975; 4 Burn's Ecc. Law, 468; Ram on Assets, 331—338.

consist of the items of disbursement numbered —— and —— in the account marked A., hereinafter referred to.

Or, if not paid, state the amount due, and to whom due; as thus: The said testator's funeral expenses amount to £——; and the same remain due to J. S., of N., in the county of M., undertaker.

(3.) Account of personal estate. [Dan. Pr. 1047.]

4. We have, in the account marked A. now produced and shown to us (*j*), according to the best of our knowledge, information and belief, set forth a full account of the personal estate of the said testator,

If so: not by him specifically bequeathed,

which has come to our hands, or to the hands of any of us, or to the hands of any person or persons by our order, or the order of any of us, or for our use, or the use of any of us (*k*): with the times when, the names of the persons from whom, and on what account, the same has been received; and also a like account of the disbursements, allowances, and payments made by us, or any of us, on account of the said testator's funeral expenses, debts, and personal estate, together with the times when, the names of the persons to whom, and the purposes for which, the same were disbursed, allowed, or paid.

5. We, each speaking positively for himself, and to the best of his knowledge and belief as to other persons, further say: that except as appears in the said account marked A., we have not, nor has any of us, nor have nor has any other persons or person by our order, or the order of any of us, or for our use, or the use of any of us (*k*), possessed, received, or got in, any part of the said testator's personal estate, nor any money in respect thereof: and that the said account marked A. does not contain any item of disbursement, allowance, or payment, other than such as has actually been disbursed, paid, or allowed, on the account aforesaid.

(4.) Personal estate outstanding (*l*). [Dan. Pr. 1048.]

6. To the best of our knowledge, information, and belief, the personal estate of the said testator, now outstanding or undisposed of, consists of the particulars set forth in the second schedule hereto (*m*).

(*j*) For form of this account, see Form 1232. Where the judgment or order directs that, in taking the account, capital is to be distinguished from income, the account should be divided into two parts: the first embracing the transactions as to capital; the second, as to income; and the affidavit be varied accordingly. As to exhibiting the account to the affidavit, see R. S. C. Ord. XXXVIII. 23; and note (*b*), *supra*.

(*k*) This should accord with the judgment or order directing the account to be taken.

(*l*) See R. S. C. Ord. XXXIII. 6; and note (*b*), *supra*.

(*m*) This schedule should contain all the existing assets: such as bank annuities, whether in the executors' names or in Court, and any cash in the hands of the executors: Bloxam, 48; and where the account is limited to the personal estate not specifically bequeathed, the Schedule should be limited in like manner.

7. Save what is set forth in the said second schedule, there is not, to our knowledge, information, or belief, any part of the said testator's personal estate now outstanding, or undisposed of.

(5.) Real estate at death. [Dan. Pr. 1048.

8. We have, according to the best of our knowledge, information, and belief, set forth in the third schedule hereto, the particulars of all the real estate which the said G. H. was seised of, or entitled to, at the date of his death.

If the judgment or order directs the estate at the date of the testator's will to be distinguished from the estate at the testator's death, substitute for paragraph 8 *above the following:*

8. We have, according to the best of our knowledge, information, and belief, set forth in the first part of the third schedule hereto, the particulars of all the real estate which the said testator was seised of, or entitled to, at the date of his will, and in the first and second parts of such schedule [*or as may be*] the particulars of all the real estate which the said testator was seised of, or entitled to, at the date of his death.

9. Save what is set forth in the said third schedule, the said testator was not, to the best of our knowledge, information, or belief, at (the date of his will, or at) the time of his death [*or as may be directed*], seised of, or entitled to, any real estate whatsoever.

(6.) Incumbrances. [Dan. Pr. 1048.

10. We have, according to the best of our knowledge, information, and belief, set forth in the fourth schedule hereto, the particulars of all the incumbrances affecting the said testator's real estate, and what part thereof such incumbrances respectively affect (*n*).

7.) Account of rents and profits. [Dan. Pr 1048.

11. We have, in the account marked B., now produced and shown to us (*o*), according to the best of our knowledge, information, and belief, set forth a full account of all the rents and profits of the said testator's real estate which has come to our hands, or to the hands of any of us, or to the hands of any person or persons by our order, or the order of any of us, or for our use, or the use of any of us (*p*), and the times when, the names of the persons from whom, on what account, in respect of what part of such estate the same have been received, and the times when the same became due; and also a like account of the disbursements, allowances, and payments, made by us, or any or either of us, in respect of the said testator's real estate, or the rents and profits thereof, and the times when, the names of the persons to whom, and the purposes for which, the same were made.

(*n*) If there is no incumbrance, alter the paragraph accordingly: see Form 1236, par. 3.

(*o*) For form of this account, see Form 1233.

(*p*) This should accord with the judgment or order directing the account to be taken.

12. And we, each speaking positively for himself, and to the best of his knowledge and belief as to other persons, further say: that except as appears in the said account marked B., we have not, nor has any of us, nor has any other person by our order, or the order of any of us, or for our use, or the use of any of us (*q*), possessed, received, or got in, any rents or profits of the said testator's real estate, nor any money in respect thereof; and that the said account marked B. does not contain any item of disbursement, payment, or allowance, other than such as has actually been disbursed, paid, or allowed, as above stated.

The First Schedule above referred to.

Account of the testator's personal estate, at his death.

(*Set out the particulars; as in the following examples:*)

1. £50, cash in the house.

2. £100, cash at the testator's bankers, Messrs. A. & B.

3. £1,000, consolidated £3 per cent. annuities, standing in the testator's name.

4. £10, due from John James, for half year's rent of house at ——, to Michaelmas, 188—.

5. £32 6*s.* 8*d.*, balance remaining due from John Thomas, on account of half year's rent of farm at ——, to Michaelmas, 188—.

6. £300, a debt due from Samuel Jones, on a bond: with interest from ——, at —— per cent.

7. A leasehold house situate at ——, held under a lease for a term of —— years, which will expire on ——, 18—, at a rent of £—— a year: underlet to James Evans for a term which will expire on ——, 18—, at a rent of £50 a year.

8. £25, half a year's rent due from the said James Evans at Christmas, 18—.

The Second Schedule above referred to.

Personal estate outstanding or undisposed of.

(*Set out the particulars; as in the above examples* (*r*)).

(*q*) This should accord with the judgment or order directing the account to be taken.

(*r*) See note (*m*), *supra*.

The Third Schedule above referred to.

Real estate (*s*).

(*Set out a short particular of the real estate; as in the following examples* (*t*).)

1. A freehold house, and grounds attached, containing about three acres, situate at ——, and called "The Evergreens:" in the testator's occupation at his death, and now in hand.

2. A freehold farm, called "Low End Farm," situate at ——, containing about 500 acres, and in the occupation of James Evans, under a lease for a term which will expire at Michaelmas, 18—, at the yearly rent of £600.

3. Twenty freehold cottages, situate at ——, aforesaid, in the occupation of Michael Sullivan, *&c.*, as weekly tenants, at rents amounting collectively to £—— a year.

4. Four copyhold closes of meadow land, situate at ——, aforesaid, in the occupation of Samuel Jones, as yearly tenant, at £12 a year, and held of the Manor of Pennefathers.

The Fourth Schedule above referred to.

Incumbrances affecting the real estate.

(*Set out a short particular of the incumbrances; and show what part of the above real estate is subject to each; as in the following examples* (*t*).)

1. The house and grounds numbered 1 in the third schedule above written are subject to a mortgage created by the testator, by indenture dated, *&c.*, in favour of Reuben Johnson, and now vested in Alfred Symes, of (*residence and addition*), as security for £500 due to him, with interest at £5 per cent.

2. The farm numbered 2 in the said third schedule is charged with the payment of an annuity of £40 to Jemima Brown, of, *&c.*, widow, during her life, under the will of the testator's brother Ephraim Hughes.

3. The closes of land numbered 4 in the said third schedule are subject to a conditional surrender made thereof by the testator on the —— day of ——, 188—, in favour of the said Alfred Symes, as security for the payment to him of £300, with interest at £4 per cent.

(*s*) As to dividing this schedule into parts, see par. 8 of the affidavit, *supra*

(*t*) These examples are not given in the form of affidavit, in R. S. C. App. L., No. 11.

1232.
Account of personal estate, referred to in Form 1231 (*u*). [Dan. Pr. 1047.]

A.

(*Short title and reference to the record.*)

This account, marked A., was produced and shown to A. B., C. D., and E. F. [*or as may be*], and is the account referred to in their affidavit, sworn this —— day of ——, 188—,

before me,

(*Signature of the Commissioner or Officer before whom the affidavit is sworn; see* Form 9.)

RECEIPTS.					DISBURSEMENTS.				
No. of Item	Date when received.	Names of persons from whom received.	On what account received.	Amount received.	No. of Item.	Date when paid or allowed.	Names of persons to whom paid or allowed.	For what purpose paid or allowed.	Amount paid or allowed.
	18—.			£ s. d.		18—.			£ s. d.
1		. . . .	Found in house		1		James Price . .	Undertaker's bill for funeral . .	
2		Evans & Co. . .	Balance at bankers . .		2		Messrs. A. & B.	Expenses of probate .	
3		. . . .	Half year's dividend on £2000 bank £3 per cent. annuities, due ——.		3		John George . .	A debt due to him for medical attendance . .	
4		John James . .	Half year's rent of freehold, due ——.		4		James Price . .	Bond debt of £1000, and £25 for interest thereon from —— to ——.	
5		Samuel Jones .	Bond debt of £300 and interest from —— to ——.						
6		James Evans .	Half year's rent of leasehold house, due —.						
7		William Williams	Produce of sale of the above leasehold house . .						

1233.
Account of rents and profits, referred to in Form 1231 (*v*). [Dan. Pr. 1048.]

B.

(*Short title and reference to the record.*)

This account, marked B., was produced and shown to A. B., C. D., and

(*u*) For this form, see R. S. C. Ord. LV. 75; App. L., No. 12. The items on each side should be placed in chronological order, so that the state of the account may be ascertained at any date, and be numbered consecutively; and the numbers of the items of debit should form a distinct series from the numbers of the items of credit; as shown in the above examples. The account should include any sums received since the judgment or order: Dan. Pr. 1049. As to exhibiting, and authenticating alterations in, the account, see R. S. C. Ord. XXXVIII. 22, 23; and note (*b*), *supra*. The account must be written on foolscap paper, bookwise: R. S. C. Ord. LXVI. 2.

(*v*) For this form, see R. S. C. Ord. LV. 75; App. L., No. 13; and see note (*u*) *supra*.

E. F. [*or as may be*], and is the account referred to in their affidavit, sworn this —— day of ——, 188—,

before me,

(*Signature of the Commissioner or Officer before whom the affidavit is sworn: see* Form 9.)

RECEIPTS.

No. of Item.	Date when received.	Names of persons from whom received.	On what account, and in respect of what part of the estate received, and when due.	Amount received. £ s. d.
1	18—.	John James . .	Half year's rent for farm in parish of ——, due ——	
2		Thomas Jones .	One quarter year's rent of house at ——, due —	
3		John James . .	Same as No. 1, due ——	

DISBURSEMENTS.

No. of Item.	Date when paid or allowed.	Names of persons to whom paid or allowed.	For what purpose paid or allowed.	Amount paid or allowed. £ s. d.
1	18—.	Sun Insurance office.	One year's insurance against fire due ——	
2		Thomas Carpenter.	Repairs at John James's farm . .	
3		James Francis .	Income tax half year due 10th October, 188— . .	

1234. Affidavit by joint executors and trustees, verifying their supplemental accounts of personal estate and rents and profits (*w*). [Dan. Pr. 1049.]

(*Title—and names, &c., of the deponents: as in* Form 1231.)

1. We have, in the account marked C., now produced and shown to us (*x*), according to the best of our knowledge, information, and belief, set forth a full account of the personal estate of G. H., the testator in the judgment [*or*, order] made in this action [*or*, matter], dated the —— day of ——, 188—, named,

If so: and not by him specifically bequeathed,

which, since the —— day of ——, 188— (the time to which our former account thereof, marked A., verified by our affidavit filed in this action the —— day of ——, 188—, was made up and rendered), has come to our hands (*Continue as in paragraph* 4 of Form 1231, *to the end of that paragraph*).

2. We, each speaking positively for himself, and to the best of his knowledge and belief as to other persons, further say: that except as appears in the said accounts marked A. and C., we have not, nor has any of us, nor have nor has any other persons or person by our order, or the order of any of us, or for our use, or the use of any of

(*w*) See notes to Form 1231.

(*x*) This account will be the same in form as the previous account: see Form 1232; but care should be taken to distinguish it by a different letter, and to number the items on each side *in continuation* of the numbers of the items in the previous account, as neglect so to do is apt to lead to much confusion.

us (*y*), possessed, received, or got in, any part of the said testator's personal estate, nor any money in respect thereof; and that the said account marked C. does not contain any item of disbursement, allowance, or payment, other than such as has actually been disbursed, paid, or allowed, on the account aforesaid.

3. To the best of our knowledge, information, and belief, the personal estate of the said testator now outstanding, or undisposed of, consists of the particulars set forth in the schedule hereto (*z*).

4. Save what is set forth in the said schedule, there is not, to our knowledge, information, or belief, any part of the said testator's personal estate now outstanding, or undisposed of.

5. We have, in the account marked D., now produced and shown to us (*a*), according to the best of our knowledge, information, and belief, set forth a full account of all the rents and profits of the said testator's real estate, which since the —— day of ——, 188— (the time to which our former account thereof, marked B., verified by our (said) affidavit filed in this action the —— day of ——, 188—, was made up and rendered), have come to our hands, or to the hands of any of us, or to the hands of any person or persons by our order, or the order of any of us, or for our use, or the use of any of us (*y*); and the times when, the names of the persons from whom, on what account, in respect of what part of such estate the same have been received, and the times when the same became due; and also a like account of the disbursements, allowances, and payments made by us, or any or either of us, in respect of the said testator's real estate, or the rents and profits thereof, and the times when, the names of the persons to whom, and the purposes for which, the same were made.

6. And we, each speaking positively for himself, and to the best of his knowledge and belief as to other persons, further say: that except as appears in the said accounts marked B. and D., we have not, nor has any of us, nor has any other person by our order, or the order of any of us, or for our use, or the use of any of us (*y*), possessed, received, or got in, any rents or profits of the said testator's real estate, nor any money in respect thereof; and that the said account marked D. does not contain any item of disbursement, payment, or allowance, other than such as has actually been disbursed, paid, or allowed as above stated.

The Schedule above referred to.

(*Set out the particulars of the personal estate outstanding or undisposed of: for examples, see first schedule to* Form 1231.)

(*y*) This should accord with the judgment or order directing the account to be taken.

(*z*) As to this schedule, see Form 1231, note (*m*).

(*a*) This account will be the same in form as the previous account: see Form 1233; but see *supra*, note (*x*).

1235. Affidavit by a sole executor or administrator, verifying his account, and answering the usual inquiries as to personal estate (*b*).

Formal parts: see Form 6.

1. I have, according to the best of my knowledge, information, and belief, set forth in the first schedule hereto, a full account and inventory of the personal estate of or to which G. H., the testator [*or*, intestate], in the judgment [*or*, order] made in this action [*or*, matter], dated the —— day of ——, 188—, named, who died on the —— day of ——, 188—, was possessed or entitled at the time of his death.

In a case of testacy, add, if the judgment or order is so qualified: and not by him specifically bequeathed,

2. Save what is set forth in the said first schedule,

In a case of testacy, add, if the judgment or order is so qualified: and what is by the said testator specifically bequeathed,

the said testator [*or*, intestate] was not, to the best of my knowledge, information, or belief, at the time of his death possessed of, or entitled to, any debt or sum of money due to him from me, on any account whatsoever (*Continue as in paragraph* 2 of Form 1231, *to the end of paragraph* 3 : *substituting* "intestate's," *for* "testator's," *where applicable*).

4. I have, in the account marked A., now produced and shown to me (*c*), according to the best of my knowledge, information, and belief, set forth a full account of the personal estate,

In a case of testacy, add: of the said testator, *and, if the judgment or order is so qualified, add also:* not by him specifically bequeathed,

In a case of intestacy, add: of the said intestate,

which has come to my hands, or to the hands of any person or persons by my order, or for my use (*d*) ; with the times when, the names of the persons from whom, and on what account the same has been received ; and also a like account of the disbursements, allowances, and payments, made by me on account of the said testator's [*or*, intestate's] funeral expenses, debts, and personal estate : together with the times when, the names of the persons to whom, and the purposes for which the same were disbursed, allowed, or paid.

5. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, further say : that except as appears in the said account marked A., I have not, nor have nor has any other persons or person by my order, or for my use (*e*), possessed, received, or got in any part of the said testator's [*or*, intestate's] personal estate, nor any money in respect thereof ; and that the said account marked A. does not contain any item of disbursement, allowance, or payment, other than such as has actually been disbursed, paid, or allowed, on the account aforesaid.

(*b*) See notes to Form 1231. This and the next form can be readily combined, where the executor has also to account as trustee of the real estate.

(*c*) For form of this account, see Form 1232.

(*d*) This should accord with the judgment or order directing the account to be taken.

(*e*) *Ibid.*

6. To the best of my knowledge, information, and belief, the personal estate of the said testator [*or*, intestate] now outstanding, or undisposed of, consists of the particulars set forth in the second schedule hereto (*f*).

7. Save what is set forth in the said second schedule, there is not, to my knowledge, information, or belief, any part of the said testator's [*or*, intestate's] personal estate now outstanding or undisposed of.

The first [*or*, second] schedule above referred to.

(*The same as the first* [*or, second*] *schedule to* Form 1231.)

1236.

Affidavit by a sole trustee of a testator's will, verifying his account of rents and profits, and answering the usual inquiries as to real estate (*g*).

Formal parts: see Form 6.

1. I have, according to the best of my knowledge, information, and belief, set forth in the first schedule hereto the particulars of all the real estate which G. H., the testator in the judgment [*or*, order] made in this action [*or*, matter], dated the —— day of ——, 188—, named, who died on the —— day of ——, 188—, was seised of, or entitled to (*Continue as in paragraph* 8 *of* Form 1231, *to the end of that paragraph*).

2. Save what is set forth in the said schedule, the said testator was not, to the best of my knowledge, information, or belief, at (the date of his will, or at) the time of his death [*or as may be directed*], seised of, or entitled to, any real estate whatsoever.

3. I have, according to the best of my knowledge, information, and belief, set forth in the second schedule hereto the particulars of all the incumbrances affecting the said testator's real estate, and what part thereof such incumbrances respectively affect.

Or, if there is no such incumbrance, say: 3. To the best of my knowledge, information, and belief, there is not any incumbrance affecting the said testator's real estate, or any part or parts thereof.

4. I have, in the account marked A., now produced and shown to me (*h*), according to the best of my knowledge, information, and belief, set forth a full account of all the rents and profits of the said testator's real estate which have come to my hands, or to the hands of any person or persons by my order, or for my use (*i*); and the times when, the names of the persons from whom, on what account, in respect of what part of such estate the same have been received, and the times when the same became due; and also a like account of the disbursements, allowances, and payments, made by me in respect of the said testator's real estate, or the rents and profits thereof, and the times when, the names of the persons to whom, and the purposes for which, the same were made.

(*f*) As to this schedule, see Form 1231, note (*m*).

(*g*) See Form 1235, note (*b*).

(*h*) For form of this account, see Form 1233.

(*i*) This should accord with the judgment or order directing the account to be taken.

5. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, further say that, except as appears in the said account marked A., I have not, nor has any other person by my order, or for my use (*j*), possessed, received, or got in, any rents or profits of the said testator's real estate, nor any money in respect thereof; and that the said account marked A. does not contain any item of disbursement, payment, or allowance, other than such as has actually been disbursed, paid, or allowed, as above stated.

The first [*or*, second] schedule above referred to.

(*The same as the third* [*or, fourth*] *schedule to* Form 1231.)

1237.

Affidavit by joint executors and trustees, of non-receipt of (further) personal estate, or rents and profits. [Dan. Pr. 1049.]

(*Title—and names, &c., of the deponents: as in* Form 1231.)

1. We, each speaking positively for himself, and to the best of his knowledge and belief as to other persons, say, that we have not, nor has any of us, nor have nor has any other persons or person by our order, or the order of any of us, or for our use, or the use of any of us (*j*),

If so: since the —— day of ——, 188—, the time to which our accounts thereof, marked respectively A. and B., verified by our affidavit filed in this cause the —— day of ——, 188—, were made up and rendered,

possessed, received, or got in, any part of the personal estate of G. H., the testator in the judgment [*or*, order], made in this action [*or*, matter], dated the —— day of ——, 188—, named; nor any money in respect thereof, nor any rents or profits of the said testator's real estate, nor any money in respect thereof.

1238.

Affidavit by a sole executor (or administrator) and trustee, of non-receipt of (further) personal estate, or rents and profits. [Dan. Pr. 1049.]

Formal parts: see Form 6.

1. I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, say, that I have not, nor have nor has any other persons or person by my order, or for my use (*k*),

If so: since the —— day of ——, 188—, the time to which my accounts thereof, marked respectively A. and B., verified by my affidavit filed in this cause the —— day of ——, 188—, were made up and rendered,

possessed, received, or got in, any part of the personal estate of G. H., the testator [*or*, intestate] in the judgment [*or*, order], made in this action [*or*, matter], dated the —— day of ——, 188—, named, nor any money in respect thereof, nor any rents or profits of the said testator's real estate, nor any money in respect thereof.

(*j*) This should accord with the judgment or order directing the account to be taken.

(*k*) *Ibid.*

1239.

Negative affidavit by the executor of a deceased executor, as to the personal estate of the original testator (*l*).

Formal parts: see Form 6.

1. I believe that T. R., the testator in the judgment [*or*, order] in this action [*or*, matter], dated the —— day of ——, 188—, named, was at the time of his death possessed of some personal estate, including certain household furniture, but I cannot, as to my knowledge, information, or belief, say what were the particulars or value thereof: except that it appears by the Probate Act that the amount of the personal estate of the said testator was sworn to be under the value of £——. Except as aforesaid, I cannot as to my knowledge, information, or belief, set forth a full, or any, account or inventory of the personal estate which the said testator T. R. was possessed of, or entitled to, at the time of his death.

2. And I, speaking positively as to myself, and to the best of my knowledge and belief as to other persons, further say, that, save as aforesaid, the said T. R. was not, at the time of his death, possessed of, or entitled to, any debt or sum of money due to him from me, or from R. S., deceased, in the said judgment [*or*, order] named, the executor of the said testator T. R., on any account whatsoever; nor to any leasehold or other personal estate whatsoever.

3. I cannot, as to my knowledge, information, or belief, set forth a full, or any, account of the personal estate of the said testator T. R., which came to the hands of the said R. S., or to the hands of any person or persons by his order, or for his use; or a like, or any, account of the disbursements, allowances, or payments made by the said R. S., in respect of the funeral expenses, debts, or personal estate of the said testator T. R.

4. And I, speaking positively as to myself, and to the best of my knowledge and belief as to other persons, further say, that no part of the personal estate of the said testator T. R. has come to my hands, or to the hands of any other person or persons by my order, or for my use.

5. There is not to my knowledge, information, or belief, any part of the personal estate of the said testator T. R., now outstanding or undisposed of.

1240.

Notice of having left accounts, and filed affidavit (*m*). [Dan. Pr. 1049.]

Formal parts: see Form 37.

Take notice, that I have this day left at the Chambers of Mr. Justice ——, the accounts of the defendant A. B. [*or as may be*], in answer to the directions numbered 1, 2, *&c.*, in the judgment [*or*, order], dated ——, 188—, and filed an affidavit of the said defendant [*or as may be*] verifying the said accounts, and answering the inquiries numbered 6, 7, *&c.*, in the said judgment [*or*, order].

(*l*) As to the representatives of a deceased executor and the remedies against them, see Dan. Pr. 238—241. For forms of judgment, see 2 Seton, 880—882, Nos. 1—5.

(*m*) See R. S. C. Ord. XXXIII. 4; XXXVIII. 20.

1241.

Surcharge against an accounting party (*n*). [Dan. Pr. 1049.]

(*Short title and reference to the record.*)

The surcharge of the plaintiff [*or as may be*] against the defendant A. B. [*or as may be*], under the account numbered ——, in the judgment [*or*, order] in this action [*or*, matter] dated the —— day of ——, 188—.

The plaintiff [*or as may be*] seeks to charge the defendant A. B. [*or as may be*] with the several sums of money hereinafter particularised, beyond what the defendant A. B. [*or as may be*] has, by his account marked A., left at the Chambers of Mr. Justice ——, on the —— day of ——, 188—, pursuant to the said judgment [*or*, order], admitted to have been received by him; that is to say:

Set out particulars of the surcharge, in a short and succinct manner; as thus:

No. of item.	Date when received.	Names of persons from whom received.	Particulars of amount received.	Amount received.
				£ s. d.
73	18—, Jan. 4	John Thomas .	Half year's rent of Bolder Farm, due Michaelmas, 18—.	30 1 9

1242.

Notice thereof (*o*). [Dan. Pr. 1049.]

Formal parts: see Form 37.

Take notice, that I have this day left at the Chambers of Mr. Justice —— a statement of several sums of money therein and hereinafter particularised, with which the plaintiff [*or as may be*] seeks to charge the defendant A. B. [*or as may be*], beyond what the said defendant [*or as may be*] has, by his account marked A., left at the said Chambers on the —— day of ——, 188—, admitted to have been received by him; that is to say:

Set out particulars: as in the surcharge.

And take notice, that I have this day filed an affidavit of the plaintiff [*or as may be*] in support of such statement; and that the Chief Clerk has appointed ——, the —— day of ——, 188—, at —— o'clock in the ——noon, at the said Chambers, to proceed upon the said statement.

1243.

Summons for special directions as to the mode of taking or vouching an account (*p*). [Dan. Pr. 1053.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant [*or as may be*], that in taking the account

(*n*) See R. S. C. Ord. XXXIII. 5; and note (*b*), at p. 506. As to cross-examining the accounting party, and as to production of documents by him, see Dan. Pr. 1049, 1050. As to surcharging and falsifying, and opening settled accounts, see 2 Seton, 795—797.

(*o*) See R. S. C. Ord. XXXIII. 5; and note (*b*), at p. 506.

(*p*) See R. S. C. Ord. XXXIII. 3; and note (*b*), at p. 506; 2 Seton, 778, 779. For forms of order, see 2 Seton, 774, Nos. 6, 7, 8.

Nod. — directed by the judgment [*or*, order] dated the ——, 188— (*Describe the directions required; as thus:*

the book of account marked A., referred to in the affidavit of L. B. filed the ——, 188—: being the book in which the said L. B. kept an account of his disbursements in respect of the estate of T. H. B., the testator).;

may be taken as *primâ facie* evidence of the truth of the payments referred to in the said affidavit [*or as may be*]: with liberty for any of the parties interested therein to take such objections thereto as they may be advised.

1244.

Request that Taxing Master of Chancery Division will moderate bill of costs claimed at Chambers (*q*). [Dan. Pr. 1058.]

Formal parts: see Form 1202.

The proper Taxing Master is requested to tax and settle the accompanying bill of costs, identified by my initials thereon: which is claimed against the estate of A. B., the testator [*or as may be*] in this action [*or*, matter], under the judgment [*or*, order] therein dated the —— day of ——, 188—.

Or, to assist in making a proper allowance in respect of the accompanying bill of costs, identified, *&c.*, in taking the accounts of the defendant [*or as may be*], the executor [*or as may be*] of A. B., the testator (*&c.: as above*): in which accounts the said bill of costs is claimed as a payment by the said defendant [*or as may be*] to his solicitor.

1245.

Another form of such request (*r*). [Dan. Pr. 1058.]

Formal parts: see Form 1202.

The amount of the accompanying bill of costs, signed with my initials, is claimed in the accounts of the defendant C. D., the executor [*or as may be: see* Form 1244], as a payment made by him as such executor [*or as may be*] to his solicitor. The proper Taxing Master is requested to peruse such bill, and state whether the items are fair and proper: in order to assist the Judge in making a proper allowance in respect thereof.

1246.

Request that Taxing Officer of another Division or Court will tax a bill of costs claimed in the Chancery Division. [Dan. Pr. 1058, note (*t*).]

Formal parts: see Form 1202.

Mr. Justice —— requests the Taxing Officer of the House of Lords [*or*, one of the Masters of the Queen's Bench Division—*or other officer to whom the bill is to be sent*] to tax the within bill of costs (*s*); and to report to him the amount at which he has allowed the same.

(*q*) See R. S. C. Ord. LXV. 27 (26).

(*r*) See *Allen* v. *Jarvis*, L. R. 4 Ch. 616, L.JJ.; 1 Seton, 625.

(*s*) The request is usually indorsed on the bill itself. Where the bill is to be taxed as between solicitor and client, or on other special terms, the request should be enlarged accordingly.

1247.
Admission of assets by or on behalf of an executor or administrator (*t*).
[Dan. Pr. 988.]

(*Title and reference to the record.*)

I (the defendant), A. B., the executor of the will [*or*, administrator of the estate and effects] of C. D., the testator [*or*, intestate] in this action [*or*, matter],

Or, I., E. F., as solicitor of, and for and on behalf of, A. B., the executor (*&c. : as above*),

do hereby admit assets of the said testator [*or*, intestate] for the purposes of this action [*or*, matter].

Or, for payment of all his debts and the costs of this cause.

Or, for payment of the legacy given by his will to G. H.—*or as may be.*

Dated this —— day of ——, 188—.

A. B. [*or*, E. F.]

(12.) *Management of Property* (*u*).

(*Dan. Pr.*, pp. 1062—1064, cccxcii.)

1248.
Summons for leave to institute an action (*v*).
[Dan. Pr. 1062, 1063.]

Formal parts : see Form 43 *or* 1077.

on the part of the plaintiffs [*or*, defendants, A. B. and C. D.—*or as may be*], the trustees [*or*, executors] of the will of E. F., the testator

Or, the administrators of the personal estate of E. F., the intestate in the pleadings named [*or as may be*] :

1. That they may be at liberty to institute and prosecute an action

Or, to take proceedings in the proper County Court—*or as may be;* against all proper parties, for the purpose of (*State, shortly, the object; as thus :*

compelling a foreclosure or sale of the hereditaments comprised in the mortgage security for £500

Or, recovering a debt of £500 due

from G. H., and now forming part of the outstanding estate of the said E. F.)

(*t*) As to an admission of assets, and the effect thereof, see 2 Williams' Exors., 2059—2061.

(*u*) As to the effect of the pendency of an action on the exercise by trustees of discretionary powers, see Dan. Pr. 1062, note (*x*) ; Lewin, 388, 407, 516, 517 ; Hill on Trustees, 567, *et seq.* ; Haddan, 32 ; 1 Seton, 490 ; *Tempest* v. *Camoys*, 21 Ch. D. 571, 578 ; *Re Gadd, Eastwood* v. *Clark*, 23 Ch. D. 134.

(*v*) As to the proper person to have the conduct of the suit, see *Harrison* v. *Richards*, L. R. 1 Ch. 473 : 12 Jur. (N. S.) 871, L.JJ. For form of order, see 1 Seton, 488, No. 6. Before leave to institute proceedings is given, the opinion of counsel that there is good ground of suit is usually required. If the leave is given, it is in general limited in the first instance to the early stages of the proposed action. After the defence of the defendant has been put in, the summons must be restored, and a further opinion of counsel, if necessary, will be called for ; so that it may be seen that the action can proceed to trial with reasonable prospect of success.

2. That the applicants may be indemnified, in such manner as the Judge shall direct, against any costs to be incurred by them in such action [*or*, proceedings], out of the estate of the said E. F. (*w*).

1249.

Summons for leave to defend an action (*x*). [Dan. Pr. 1062, 1063.]

Commence as in Form 1248.

1. That they may be at liberty to defend an action commenced against them in the —— Division of this Honourable Court [*or as may be*] by A. B. and C. D., the executors of L. M. [*or as may be*], for the purpose of (*State, shortly, what; as thus:*

compelling a foreclosure or sale of the hereditaments comprised in the mortgage security for £500 to the said L. M.: the equity of redemption whereof forms part of the estate of the said E. F.):

and the short title of which action is Brown *v.* Jones (188—, B. 90).

2. That the applicants may be indemnified (*Conclude as in* Form 1248).

Dated (*&c.: Conclude as in* Form 43 *or* 1077).

1250.

Summons for leave to convert outstanding estate (*y*). [Dan. Pr. 1063.]

Commence as in Form 1248.

that they may be at liberty to sell the £5,000 Russian £5 per cent. stock [*or as may be*], forming part of the outstanding estate of the said E. F.; and that the proceeds of such sale may be paid by the applicants, within ten days after the receipt thereof, into Court, to the credit of this action, Brown *v.* Jones (188—, B. 90), "The personal estate account;" and be invested in consolidated £3 per cent. annuities; and that the dividends to accrue on such annuities may be from time to time invested in like annuities [*or as may be*].

Dated, *&c.*

1251.

Summons for leave to carry on testator's business (*z*).

Commence as in Form 1248.

that the applicants may be at liberty to carry on the testator's business of a ——, at ——, until the sale thereof, or until the —— day of ——, next; and to use and employ for that purpose any part of the sum of £——, now in their hands, and forming part of the testator's personal estate.

Dated, *&c.*

1252.

Summons for leave to pay debts.

Commence as in Form 1248.

that the applicants may be at liberty, out of the assets of the said E. F. in their hands, to pay the debts of the said E. F. specified in the

(*w*) See 1 Seton, 488, No. 7.

(*x*) For form of order, see 1 Seton, 488, No. 7. An opinion of counsel is usually required; and the summons is required to be restored after close of the pleadings in the foreign action, in order that it may be seen that the costs of continuing the defence can be incurred with a reasonable prospect of success.

(*y*) For various forms of orders relating to outstanding estate or securities, see 2 Seton, 917—919.

(*z*) As to carrying on business, see 2 Seton, 916, 917; and for forms of order directing inquiries as to the business of a testator or intestate, *Ibid.*, 913—916, Nos. 1—8.

schedule to the Chief Clerk's separate certificate, dated the ——, 188—.

Or, in the exhibit marked A. to the affidavit of the applicants, filed ——, 188— [*or as may be*].

Dated, *&c.*

1253.

Summons for leave to compromise an action or claim. [Dan. Pr. 1063.]

Commence as in Form 1248.

that the applicants may be at liberty to compromise the action of "Brown *v.* Jones," instituted by [*or*, against] them, in the —— Division of this Honourable Court, against [*or*, by] (*State whom*), for (*State, shortly, the object of the action*),

Or, to compromise the debt due by [*or*, to] G. H. to [*or*, from] the estate of the said E. F.,

upon the terms following; namely: (*State them*).

Dated, *&c.*

1254.

Summons for leave to execute repairs or drainage works (*a*). [Dan. Pr. 1063.]

Commence as in Form 1248.

that the applicants may be at liberty to lay out sums of money not exceeding the respective sums set forth in the second column of the schedule hereto, in effecting the repairs [*or*, works of drainage] and improvements specified in the affidavit of A. B., filed the ——, 188—, and in the exhibits thereto, to those portions of the estates of the testator E. F., situate at ——, in the county of ——, which are now in the occupation of the respective persons whose names are set forth in the first column of the said schedule; and may be allowed what they shall so lay out on passing their accounts in this action.

Dated, *&c.*

The Schedule above referred to.

Names of Occupiers.	Estimated amount to be laid out.		
	£	*s.*	*d.*
Peter Brice	209	8	6
John Witham	80	4	11
Benjamin Scholefield	137	11	3
	427	4	8

1255.

Summons for leave to protect testator's estate, on an application to Parliament (*b*).

Commence as in Form 1248.

that the applicants may be at liberty to take such proceedings as they may be advised, to protect the testator's estate, and the interests of the

(*a*) For form of order, see 1 Seton, 487, No. 4.

(*b*) For forms of order giving trustees of an infant's estate leave to oppose a Bill in Parliament, see 2 Seton, 736, 737, Nos. 9—11.

parties interested therein, on the intended application to Parliament by the G. E. R. Company, for an Act to carry out their undertaking. And that the applicants may be indemnified (*Conclude as in* Form 1248).

Dated, *&c.*

1256.

Summons to confirm agreements for enfranchisement (*c*). [Dan. Pr. 1063.]

Commence as in Form 1248.

that the (six) several agreements, of the respective dates set forth in the first column of the schedule hereto, and respectively entered into by A. B. on behalf of the applicants, the trustees, of the first part, and the defendant C. D. of the second part, with the several persons of the third part whose names are set forth in the second column of the said schedule, opposite the said respective dates, for the enfranchisement of the premises in the said agreements respectively described, at the prices set forth in the third column of the said schedule, may be respectively carried into effect.

Dated, *&c.*

The Schedule above referred to.

Date of agreement.	Name of the purchaser.	Price of enfranchisement.		
		£	*s.*	*d.*
31 March, 188—. &c.	John Jones . . . . . &c.	208	3	1

1257.

Summons for leave to take admission to copyholds (*d*). [Dan. Pr. 1063.]

Commence as in Form 1248.

that the applicants may be at liberty to take admission to the copyhold tenements which E. F., the testator in this action, held of the manor of B., at the time of his death ; and to pay the fine and fees incident to such admission out of the assets of the said E. F. in their hands [*or as may be*].

Dated, *&c.*

1258.

Summons for leave to obtain a renewal of a lease. [Dan. Pr. 1063.]

Commence as in Form 1248.

that the applicants may be at liberty to accept from G. H. a renewal, for the term of —— years from Michaelmas next, at the annual rent of £——, of the lease dated the ——, 188—, of the Manor Farm at B., in the county of C., now forming part of the outstanding estate of the said E. F. : such lease to be granted to the applicants as executors of the will of the said E. F.

Dated, *&c.*

(*c*) For order in like case, see *Fox* v. *Earl Amherst*, V.-C. S. at Chambers, 9 June, 1866, Reg. Lib. A. 1599.

(*d*) See 1 Seton, 3rd ed., 513—521.

1259.
Summons to approve of an agreement to grant a lease (*e*).
[Dan. Pr. 1063.]

Commence as in Form 1248.
that the conditional contract dated the —— day of ——, 188—, entered into by the applicants

Or, by G. H., as the agent for, and on behalf of, the applicants to grant to L. M. a lease of the Manor Farm at B., in the county of C. [*or as may be*], part of the trust estate of the testator E. F., on the terms and conditions therein mentioned, may be directed to be carried into effect: such lease to be approved by the Judge [*or as may be*].

Dated, *&c.*

1260.
Affidavit in support.
[Dan. Pr. 1063.]

(*Title and reference to the record.*)

I, G. H., of (*residence and addition*), make oath and say as follows:

1. I have, for —— years last past, carried on the business of a surveyor, auctioneer, and land and estate agent at ——, in the county of ——; and I am well acquainted with the value, management and letting of land and house property in the neighbourhood of the farm hereinafter mentioned.

2. I am well acquainted with the farm and premises described or referred to in the agreement dated the —— day of ——, 188—, made between (*Describe the parties*), and now produced and shown to me, and marked G. H. 1 (*f*).

3. I was recently employed by the plaintiffs [*or as may be*] to obtain a tenant for the said farm and premises, and to negotiate the letting thereof.

4. Having well considered the value of the said farm and premises, I am of opinion that the rent of £——, in the said agreement mentioned, is the best rent that can reasonably be obtained for the said premises; and that the terms and conditions of the said agreement in other respects

If a draft lease has also been approved, add: and of the draft lease referred to in the said agreement, and now also produced to me and marked G. H. 2 (*f*),

are fair and reasonable, and such as are usually inserted in leases of property of the same nature; and in my judgment and opinion it will be beneficial to the estate of the testator E. F. [*or as may be*] that the said agreement should be carried into effect.

5. I have made inquiries as to the position and means of the said L. M. (*tenant*), and as to his ability to pay the rent and perform the covenants and agreements on his part contained in the said agreement, and to be contained in the lease to be granted in pursuance thereof.

(*e*) For form of order, see 1 Seton, 487, No. 5. As to powers of leasing, see Sugd. Pow. 711—835; 22 & 23 Vict. c. 35, ss. 1—3; 23 & 24 Vict. c. 38, s. 6; Sugd. Stat. 310—313. As to agreements for leases, see 5 Davidson Conv. 1—20; and for forms of agreements for leases, and of leases, see *Ibid.*, 21—95, and 105—562; Woodfall, 858—896; and for the stamp duties thereon, 5 Davidson Conv. 20, 100—104; the Stamp Act, 1870 (33 & 34 Vict. c. 97). As to agricultural customs, see Dixon, 1—43.

(*f*) Exhibit same. For form of memorandum of exhibit, see Form 28; and note (*ss*) thereto.

From information derived by me in prosecuting such inquiries, I am of opinion that the said L. M. is fully able to pay the said rent and perform the said covenants and agreements; and that he is in all respects a desirable tenant for the said premises.

Sworn (*&c.: see* Form 9).

1261. Summons to settle draft lease. [Dan. Pr. 1064.]

(*See* Form 1159.)

1262. Affidavit of examination of engrossments of lease and counterpart. [Dan. Pr. 1064.]

Formal parts: see Form 6.

1. I have carefully examined and compared each of the two parchment writings now respectively produced to me, and marked respectively A. B. 1 and A. B. 2 (*g*), with the draft or paper writing now produced to me, and marked A. B. 3 (*g*): being the draft of the lease settled at the Chambers of the Judge to whom this action [*or*, matter] is assigned.

If so, add: pursuant to the order made therein, dated the —— day of ——, 188—.

2. Each of the said parchment writings is a true and correct transcript and engrossment of the said draft.

1263. Memorandum of allowance, or identity. [Dan. Pr. 1064.]

——, 188—.

(*Short title.*)

Mr. Justice —— has settled and approved this indenture.

Or, This is the indenture of lease [*or*, counterpart of the indenture of lease] referred to in my certificate [*or*, in the order] made in this action [*or*, matter], dated the —— day of ——, 188—.

R. M., Chief Clerk.

1264. Chief Clerk's certificate of settlement of lease. [Dan. Pr. 1064.]

Formal parts: see Form 1410.

A proper lease to be granted to L. M., in the order dated the —— day of ——, 188—, named, pursuant to the agreement dated the —— day of ——, 188—, therein mentioned, has been settled: consisting of an indenture intended to be made between (*State whom: as in the lease*).

The said indenture and a counterpart thereof are respectively identified by my signature in the margin of the engrossments thereof respectively.

1265. Minute of order approving an agreement, and the lease to be granted in pursuance thereof. [Dan. Pr. 1064.]

(*Date, title, parties appearing, and evidence.*)

Order made: that the (within mentioned) conditional agreement dated, *&c.*, be carried into effect. And that the plaintiffs [*or as may be*] do execute the indenture of lease, marked A., intended to be made between (*Describe whom*), which has been settled and approved by the Judge as a proper lease to be granted in conformity with the said agreement; and which lease and a counterpart thereof are respectively identified by the signature of the Chief Clerk in the margin of the engrossments thereof. And that the said counterpart be executed by the said L. M., the lessee. (*Add any direction given as to costs.*)

(*g*) Exhibit same. For form of memorandum of exhibit, see Form 28; and note (*ss*) thereto.

(13.) *Raising Money by Sale or Mortgage* (*h*).

(*Dan. Pr.*, pp. 1064—1066.)

1266. Statement of the amount to be raised. [Dan. Pr. 1065.]

(*Short title and reference to the record.*)

Statement of the amount to be raised by sale or mortgage of the testator's real estate, pursuant to the order dated the —— day of ——, 188—.

The liabilities to be provided for, pursuant to the said order, consist of:

	£	s.	d.
1. The testator's debts and interest, as certified by the Chief Clerk's certificate, dated ——, 188—	4,379	5	10
2. Subsequent interest on the debts, say . . .	109	0	0
3. Costs of the plaintiffs and defendants of this action (*i*)	203	11	5
	£4,691	17	3

The personal estate of the testator applicable to the payment of the said liabilities consists of:

1. £2,360 11*s.* 8*d.* consolidated £3 per cent. annuities, in Court, on the credit of this action —now worth at 100⅛ per cent.	£2,363	10	6	
2. Cash in Court on the like credit	60	6	9	
				2,423 17 3
Leaving a deficiency to be raised by sale or mortgage of, say				£2,268 0 0

1267. Summons for leave for intended mortgagee to pay his advance into Court (*j*). [Dan. Pr. 1066.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or other person having the conduct of the*

(*h*) For forms of order, see 2 Seton, 843, No. 19, 844, No. 20. For mode of working out the order, see Dan. Pr. 1064, 1065; 2 Seton, 844. A fee is payable of 2*s.* for every £100, or fraction of £100, of the amount raised, on the sale or mortgage of any land or hereditaments, pursuant to an order directing same with the approbation of the Judge, made in any cause or matter, for the purpose of raising money to be dealt with by the Court therein: Ord. as to S. C. Fees, 1884, Sched. No. 69; but see *Ibid.*, pp. 12—14. The stamps for the fee may be impressed or adhesive: Ord. as to Fees, &c., July, 1884, p. 9.

(*i*) The costs of the intended mortgagee should be included in the costs of the plaintiff, or other party having the conduct of the cause: Dan. Pr. 1065, note (*c*).

(*j*) For form of order, see 2 Seton, 843, No. 19. As to the course when the money has to be raised by sale, see Dan. Pr. 1064. As to conveyances by infants under 11 Geo. IV., and 1 Will. IV. c. 47, s. 11, on a sale or mortgage to pay the debts of a deceased person, and as to vesting orders under the Trustee Acts in like case, see Dan. Pr. 1065; 2 Seton, 713, 714; Shelford, R. P. Acts, 472—475. As to conveyances by limited owners, on a sale or mortgage for payment of debts, see 11 Geo. IV., and 1 Will. IV. c. 47, s. 12; 2 & 3 Vict. c. 60, s. 1; 1 Seton, 527; 2 Seton, 713; Shelford, R. P. Acts, 474, 475. For forms of order, see 2 Seton, 3rd ed., 825—827.

action], that it appearing that the sum of £2,268 will be required to be raised to pay the amount due in respect of the debts, interest, and costs, by the order dated, *&c.*, directed to be raised by sale or mortgage of the testator's real estate [*or as may be*]; and the Judge being of opinion that the said sum should be raised by mortgage; and A. B., of [*residence and addition*], being willing to lend the said sum upon the security of the indenture of mortgage hereinafter mentioned of the said real estate: the said A. B. may be at liberty, on or before the —— day of ——, 188—, to pay the said £2,268 into Court, to the credit of this action; and that, upon such payment being made, the defendant G. H. may execute and deliver to the said A. B. the indenture intended to be made between (*Set out names of parties, as in deed*), which has been settled by the Judge as a proper mortgage to be executed in pursuance of the said order, and is identified by the signature of the Chief Clerk in the margin of the engrossment thereof.

1268.

Recitals in mortgage of order to create same and of payment of mortgage money into Court. [Dan. Pr. 1065.]

(*After recitals of judgment, and Chief Clerk's certificate of deficiency of personalty*) And whereas by an order dated the —— day of ——, 188—, made in the said action, the costs of the plaintiffs and defendants of the said action were directed to be taxed; And it was ordered that subsequent interest should be computed on the debts of the testator mentioned in the —— schedule to the Chief Clerk's certificate, dated, *&c.*, from the foot of the said certificate to the day for payment; And that for the purpose of providing such debts, interest, and costs, such a sum as the Judge should direct, should be raised by mortgage of a sufficient part of the testator's real estate mentioned in the schedule to the said certificate, or if necessary the whole thereof, with the approbation of the Judge: And whereas by an order dated the —— day of ——, 188—, made in the said action (*k*), after premising that it appeared that the sum of £—— would be required to be raised to pay the amount due (*&c.: see* Form 1267, *to* of the said real estate), and that the Judge was of opinion that the said sum should be raised by mortgage: It was ordered that the said A. B. should be at liberty (*&c.: Continue as in* Form 1267, *to the end: substituting* the parties therein named, *for the names, &c., of the intended parties to the mortgage*): meaning thereby these presents and the signature in the margin hereof (*l*): And whereas in pursuance of, and in obedience to, the last recited order, the said A. B., on the —— day of ——, paid the said sum of £—— into Court, to the credit of the said action: as appears by the certificate of the Assistant Paymaster [*or as may be*], filed the ——, 188—: Now this indenture witnesseth that in consideration of the payment of the said sum of £—— by the said A. B. in manner aforesaid, *&c. &c.*

(*k*) For form of summons to ground this order, see Form 1267.

(*l*) For forms of affidavit of examination of engrossment, and memorandum of approval, see Forms 1262, 1263: which can be readily adapted.

1269.
Chief Clerk's certificate of computation of subsequent interest on debts. [Dan. Pr. 1065.]

Formal parts : see Form 1410.

1. Subsequent interest has been computed on the debts of the testator mentioned in the first schedule to my certificate in this action dated the ——, 188—, at the rate of interest which such debts respectively carry, and from the date of the said certificate to the ——, 188—, the day for payment. The particulars of such subsequent interest are set forth in the fifth column of the schedule hereto, and such subsequent interest amounts to £—— : which sum of £ —— has been added to the respective amounts certified by my said certificate to be due ; and which amounts are also specified in the fourth column of the schedule hereto. The total amount now due to each creditor is set forth in the sixth column of the schedule hereto ; and such debts, interest, and costs, including such subsequent interest, now amount in the whole to the sum of £——.

The sum directed to be raised by sale or mortgage by the said order of the ——, 188—, has been raised by mortgage, with the approbation of the Judge. The sum so raised amounts to £——, and has, pursuant to an order dated the ——, 188—, been paid by A. B., the mortgagee, into Court, to the credit of, *&c.*

The indenture of mortgage to the said A. B., in the said order of the ——, 188—, mentioned, has been executed by the defendant G. H., and delivered to the said A. B., as thereby directed.

The said £—— is, pursuant to the said order of the ——, 188—, to be applied in payment of the costs, amounting to £——, certified by the Taxing Master's certificate dated the ——, 188—, and in payment of the debts, interest, and costs amounting to £——, specified in the schedule hereto.

SCHEDULE (*m*).

Serial number.	Names of the creditors.	Addresses.	Amounts before certified to be due.	Subsequent interest.	Totals due.

(14.) *Apportionment of Deficient Fund* (*n*).

(*Dan. Pr.*, pp. 1066, 1067.)

1270.
Affidavit verifying an apportionment of a fund in Court. [Dan. Pr. 1066.]

Formal parts : see Form 6.

1. I have apportioned (*Describe what : according to the order directing the apportionment to be made ; as thus :*

(*m*) Insert the particulars of columns 1, 2, 3 and 4 from the former certificate, and in the same serial order.

(*n*) See 2 Seton, 839—841. For forms of orders, see 2 Seton, 839, No. 6, 840, No. 7. As to the distinction between real and personal, and legal and equitable assets, see

the sum of £1,588 10*s.* cash, residue of the money arisen from the sale of the £2,000, consolidated £3 per cent. annuities in the order made in this action [*or*, matter] dated the ——, 188—, mentioned, and of the dividends accrued thereon prior to such sale, which remains after payment thereout of the costs, and costs, charges, and expenses, by the said order directed to be so paid),

amongst (*State whom: according to the order; as thus:*

the several creditors [*or*, legatees] in the Chief Clerk's certificate dated the ——, 188—, respectively named);

and in making such apportionment I have, according to the direction of the said order, computed and added to the amount by the said certificate certified to be due to each creditor [*or*, legatee—*or as may be*], subsequent interest on his debt [*or*, legacy] from the ——, 188—, to the ——, 188—, at the rate of interest which such debt [*or*, legacy] carries.

2. The result of such apportionment and computation is set forth in the schedule hereto; and as so set forth is true and correct. The names of the said creditors [*or*, legatees] respectively are set forth in the second column of the said schedule, and the amounts apportioned to them respectively are set forth in the sixth column of the said schedule, opposite their respective names.

SCHEDULE (*o*).

Serial No.	Names of creditors [*Or*, legatees] (*p*).	Addresses.	Amounts before certified to be due, and subsequent interest.	Totals due.	Amounts apportioned.
			£ *s.* *d.*	£ *s.* *d.*	£ *s.* *d.*
1	John Jones .	20, Cheapside, London, Woollen-draper .	200 0 0		
		Subsequent interest . . .	17 10 0	217 10 0	57 4 8
2	Thomas Young and Robert Young	Braintree, in the county of Essex, executors of William Young, deceased . .	200 0 0		
		Subsequent interest. . . .	17 10 0	217 10 0	57 4 8
				Total . £	114 9 4

Haddan, 66—79; 2 L. C. Eq. 95—103; Ram on Assets, 181—203; Trower, 268—275; Williams' Real Assets, 1—14; and for the principles on which assets are applied and distributed in equity, see Haddan, 90—139; Trower, 295—306; Williams' Real Assets, 95—118.

(*o*) For this form of schedule, see R. S. C. Ord. LV. 75; App. L., No. 20.

(*p*) The names of the creditors or legatees should be stated in the same order as in the Chief Clerk's certificate from which they are taken.

1271.
Statement of an apportionment to be certified by the Chief Clerk.
[Dan. Pr. 1067.]

(*Short title and reference to the record.*)

Concise statement of the plaintiff [*or as may be*], as to the apportionment to be made pursuant to the order dated the ——, 188—.

	£	s.	d.
Cash produced by sale of the £2,000 consolidated £3 per cent. annuities, directed to be sold by the said order	1,800	0	0
One year's dividend accrued thereon on 5th April, 188—, prior to such sale	58	10	0
	£1,858	10	0
Amount of plaintiff's taxed costs paid thereout, as directed by the said order . . £150 0 0			
The like of defendant's costs . . . 120 0 0			
	270	0	0
Balance to be apportioned . . .	£1,588	10	0
Total amount by the Chief Clerk's certificate dated the ——, 188—, certified to be due to the several creditors [*or*, legatees]	3,500	0	0
Subsequent interest on the debts [*or*, legacies] from the date of the said certificate, to the ——, 188—	100	0	0
	£3,600	0	0

The said balance of £1,588 10*s.* 0*d.* is apportionable amongst the said several creditors [*or*, legatees], pursuant to the said order, as follows :—

(*Set out the apportionment : see the Schedule to* Form 1270.)

1272.
Chief Clerk's certificate of the apportionment.
[Dan. Pr. 1067.]

Formal parts : see Form 1410.

Subsequent interest has been computed on the several debts [*or*, legacies] certified by my certificate dated the ——, 188—, as directed by the said order.

The sum of £1,588 10*s.* 0*d.* : the residue of the money which arose from the sale of the £2,000 consolidated £3 per cent. annuities, by the said order directed to be sold, and of the dividends accrued prior to such sale, after payment thereout of £270, certified by the Taxing Master to be the total amount of the costs, and costs, charges, and expenses by the said order directed to be so paid : has been apportioned rateably amongst the several creditors [*or*, legatees] named in the first schedule to my said certificate dated the ——, 188—. The names of the several creditors [*or*, legatees] are set forth in the second column of the schedule hereto, and the amounts apportioned to them respectively are set forth in the sixth column of the said schedule, opposite their respective names.

Schedule.

(*The same in outline as the Schedule to* Form 1270.)

(15.) *Appointment of New Trustees* (*q*).

(*Dan. Pr.*, pp. 1067, 1068, cccxcii.)

1273.
Affidavit of eligibility of proposed trustees (*r*). [Dan. Pr. 1067, 1068.]

Formal parts: see Form 6.

1. *Show deponent's personal knowledge of the proposed trustees; as thus:* I have for —— years last past, known and been well acquainted with E. F., of (*residence and addition*), and G. H., of (*residence and addition*), the persons proposed to be appointed new trustees of the will of A. B., late of (*residence and addition*), deceased, the testator in the judgment [*or*, order] in this action [*or*, matter], dated the —— day of ——, 188—, named.

Or, of the indenture of settlement, dated the —— day of ——, 188—, made on the marriage of A. B. with C. D., in the judgment &c., mentioned; *or as may be.*

2. *Show the position in life of the proposed trustees, and their eligibility; as thus:* The said E. F. has for —— years last past, carried on business as a banker at ——, in the (county) of ——. The said G. H. has, for —— years last past, carried on business as a wine-merchant at ——, in the (county) of ——. During my aforesaid acquaintance with them I have had many opportunities of forming an opinion as to their habits of business and integrity. The said E. F. and G. H. respectively are persons in good credit in the neighbourhood in which they respectively carry on business as aforesaid, and are both men of business habits, and of strict honour and integrity.

3. In my judgment and opinion the said E. F. and G. H. are fit, proper, and eligible persons to be appointed new trustees of the said will [*or*, indenture of settlement; *or as may be*].

1274.
Consent to act of proposed trustees. [Dan. Pr. 1067, 1068.]

(*Short title and reference to the record.*)

We, the undersigned E. F., of (*residence and addition*), and G. H., of (*residence and addition*), do hereby testify our consent to accept the office of trustees, and to act in the trusts of the will of A. B., late of

(*q*) As to the appointment of new trustees, and vesting the trust estate, see 44 & 45 Vict. c. 41, ss. 31—38; 45 & 46 Vict. c. 39, s. 5; Wolstenholme and Turner, 79—88; Lewin, 553—575; 1 Seton, 500—502. As to the duties and powers of, and allowances to, trustees and executors, see Lewin, 180—552; and see 1 Seton, 455—491. For forms of judgments and orders relative to the appointment of new trustees; breaches of trust; charging with interest; and costs and expenses, see 1 Seton, 455—491. For form of order appointing new trustees, and directing the retiring trustees to convey or assign the trust estate, see 1 Seton 499, No. 1, 500, No. 2. As to the appointment of new trustees, and vesting the trust estate, under the Trustee Acts, see Chap. XXXVIII. s. 4.

(*r*) It is usual to require the evidence of two witnesses as to the elegibility of the proposed trustees. The deponent must be sufficiently described. "Gentleman" is no sufficient description: see *In re Orde*, 24 Ch. D. 271. The solicitor in the matter is not a competent witness.

(*&c.; as in* Form 1273): in case this Court shall think fit to appoint us to that office. Dated this —— day of ——, 188—.

E. F.
G. H.

Signed by the said E. F. and G. H. in the presence of,
J. K., of (*residence and addition*).

1275.
Affidavit, verifying the signatures thereto. [Dan. Pr. 1068.]

Formal parts: see Form 6.

1. The signatures of "——," and "——," respectively set and subscribed to the paper writing marked A., now produced, and shown to me, purporting to be the consent, dated the —— day of ——, 188—, of E. F. and G. H., to accept the office of trustees of the will of A. B. [*or as may be*], are of the respective proper handwritings of the said E. F. and G. H., in such paper writing respectively named and described: as I know from having seen them respectively sign the said paper writing.

1276.
Summons to appoint trustees (*s*). [Dan. Pr. 1068.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that pursuant to the judgment [*or*, order] dated the —— day of ——, 188—, E. F., of (*residence and addition*), and G. H., of, *&c.*, may be appointed trustees of the will of A. B., the testator therein named [*or as may be*], in lieu of L. M., now deceased, and N. O., in the said judgment named [*or as may be; and add, if necessary, directions for conveying, assigning, or vesting the trust property in the new trustees*].

1277.
Summons for liberty to exercise power of appointing new trustees (*t*).

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the applicant, as surviving trustee of the will of A. B., the testator in this action [*or as may be*], may be at liberty to exercise the power of appointing new trustees

(*s*) As to vesting the trust property in the new trustees by deed, see Dan. Pr. 1068. For forms of conveyance, see Wolstenholme and Turner, 328—333; 2 Prideaux Conv. 531—548; 4 Davidson Conv. 611—661. As to the stamp duty, see 2 Prideaux Conv. 532, note (*b*); The Stamp Act, 1870 (33 & 34 Vict. c. 97), Sched. As to the effect upon the trust property of a declaration of vesting contained in the deed appointing new trustees, see 44 & 45 Vict. c. 41, s. 34; Wolstenholme and Turner, 84, 85.

(*t*) If there has been no judgment or order directing a reference to Chambers to appoint new trustees, and there are persons before the Court in whom the power to appoint new trustees is vested, an application may be made for liberty to exercise the power. Evidence of fitness of the proposed trustees, and of their consent to act, will be required. As to the power of appointing new trustees without the intervention of the Court, see the Conveyancing Act, 1881 (44 & 45 Vict. c. 41), s. 31; and as to the powers of a trustee appointed by the Court, see *Ibid.*, s. 33. As to reducing or increasing the number of trustees, *Ibid.*, ss. 31 (2), (3), 33.

vested in him by the will of the said A. B., by appointing E. F., of (*residence and addition*), and G. H., of, &c., as trustees of the will of the said A. B. jointly with the applicant [*or as may be*], in the place of L. M., deceased, and N. O., who is desirous of being discharged from the trusts of the said will [*or as may be*].

(16.) *Settlement of Deeds* (*u*).

(*Dan. Pr.*, pp. 1069—1071, cccxcii.)

1278. Summons to proceed. [Dan. Pr. 1069.]

(*Same as* Form 1159.)

1279. Direction to the conveyancing counsel to settle the draft of the deed. [Dan. Pr. 1069.]

Formal parts: see Form 1202.

Mr. Justice —— has directed that the draft of the deed, by the judgment [*or*, order] dated the —— day of ——, 188—, directed to be settled, be perused and settled by the conveyancing counsel in rotation [*or as may be*] (*v*).

1280. Recitals in a draft, of a judgment or order, and certificate of approval. [Dan. Pr. 1070.]

And whereas by a judgment [*or*, order] made in the said action [*or*, matter], and dated the —— day of ——, 188—, it was ordered that (*Recite so much of the judgment or order as is material: including the direction that the deed be settled by the Judge, either absolutely, or in case only the parties differ*). And whereas it appears by the certificate dated the —— day of ——, 188—, of the Chief Clerk of the said Judge, that these presents have been settled by the said Judge, as a proper deed of conveyance [*or as may be*], in pursuance of the said recited judgment [*or*, order].

1281. Certificate on copy of draft. [Dan. Pr. 1069.]

(*Same as* Form 1204.)

1282. Affidavits of examination of engrossment, and of execution. [Dan. Pr. 1070.]

(*Same as* Forms 1205, 1216.)

(*u*) *Settlement of deeds in case the parties differ.*—In such case, upon the return of the summons to proceed, the party entitled to prepare the draft deed will be directed to deliver a copy thereof, within such time as the Judge thinks fit, to the party entitled to object thereto: who will be directed to deliver to the other party a statement in writing of his objection within *eight days* after the delivery of such copy; and the proceedings will be adjourned until after the expiration of such period of eight days: see R. S. C. Ord. LV. 34. As to the cases in which the words "in case the parties differ" will be inserted in orders directing deeds to be settled, see 2 Seton, 1407.

(*v*) For form of note of the rotation name, see Form 1203; and see note (*c*) thereto.

1283. Memorandum of identity. [Dan. Pr. 1070.]

(*Same as* Form 1263.)

1284. Certificate of approval (and execution) of deed (*w*). [Dan. Pr. 1070.]

Formal parts: see Form 1410.

A proper conveyance to A. B., in the judgment [*or*, order] dated the —— day of ——, 188—, named, of the hereditaments therein mentioned [*or as may be; according to the judgment or order*], has been settled: consisting of an indenture intended to be made between (*State whom; as in the deed*). The said indenture is identified by my signature in the margin of the engrossment thereof.

If so: The said indenture has been executed by the plaintiff C. D., and defendant E. F. [*or as may be*].

1285. Certificate of execution. [Dan. Pr. 1070.]

(*Same as* Form 1217.)

(17.) *Sales by the Court* (*x*).

(*Dan. Pr.*, pp. 1071—1110, cccxcii., cccxciii.)

(*x*) *Sales by the Court.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Power of Court to order sale of real estate.—If in any cause or matter relating to any real estate a sale of such estate or any part thereof appears necessary or expedient, an order for sale may be made, and any party bound by the order and in possession of the estate, or receipt of the rents and profits, will be compelled to deliver up such possession or receipt to the purchaser, or such other person as may be directed . . .	LI. 1.
Abstract of title to be laid before Conveyancing Counsel.—Before any estate or interest is put up for sale, an abstract of title must be laid before some Conveyancing Counsel approved by the Court or Judge. The conditions of sale must specify a time for delivery of the abstract to the purchaser. . . .	,, 2.
Sale with approbation of the Judge.—The property must be sold, with the approbation of the Judge, to the best purchaser that can be got, the same to be allowed by the Judge, and all proper parties must join in the sale and conveyance. . . .	,, 3.
Form of affidavit of value.—Affidavits for the purpose of fixing reserved biddings must state the value of the property by reference to an exhibit containing such value, so that the value may not be disclosed by the affidavit when filed. . .	,, 4.
Prints of particulars and conditions of sale.—Two copies, certified by the solicitor as correct, must be left at Chambers .	,, 5.
Affidavit of result of sale.—An office copy of the affidavit, with the bidding paper and particulars, must be left at Chambers at least *one clear day* before the day appointed for settling the certificate of result	,, 6.

(*w*) For form of certificate of good title, approval of conveyance, and parties to execute, and receive the consideration money, see Form 1215; and of settlement of lease, Form 1264.

ORDER.

Conduct of sale of trust estates.—In an action for administration of the estate of a deceased person, or execution of the trusts of a written instrument, conduct of any sale ordered by the Court will be given to the executor, administrator, or trustee in whom the property is vested, unless otherwise directed . . L. 10.

Applications relating to sale.—Such applications are to be disposed of in Chambers . . . . . LV. 2 (14).

As to sales by the Court, see 2 Seton, 1391—1413; Sugd. V. & P. 93—121; Dart, 1171—1227; 1 Davidson Conv. 606; Ann. Pr. 479—485. As to directing a sale to be carried out in a District Registry, see Sup. Ct. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 60; *McDonald* v. *Foster*, 6 Ch. D. 193. As to the Court fees payable, see note (*h*), at p. 531.

1286.

Summons for the sale of real estate (*y*). [Dan. Pr. 1071, cccxcii.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff, that the real estate of A. B., the testator in the pleadings named [*or as may be*], may be sold with the approbation of the Judge: free from the incumbrances of such of the incumbrancers (if any) as shall consent to the sale, and subject to the incumbrances of such (if any) of them as shall not consent thereto. And that the money to arise by such sale may be paid into Court to the credit of this action B. *v.* D., 188—, B. No. . "Proceeds of sale of testator's real estate." And if such money, or any part thereof, shall arise from real estate sold with the consent of incumbrancers, that it may be applied in the first place in payment of what shall appear to be due to such incumbrancers according to their priorities (*z*).

1287.

Consent of an incumbrancer to estate being sold free from his incumbrance (*a*). [Dan. Pr. 1073.]

(*Short title and reference to the record.*)

I, the undersigned C. D., of (*residence and addition*), do hereby consent that the real estate of A. B., the testator in the order [*or*, judgment] in this action dated the ——, 188—, named, shall be sold, with the approbation of the Judge, under the provisions of the said order [*or*, judgment], free from my mortgage thereon for the sum of £500 and interest, created by an indenture dated the ——, 188—. And I agree to join in such sale, and in the conveyance thereof to the purchaser; and to produce, whenever required, for the purpose of such sale, such of the title deeds and writings relating to the said estate as are in my possession or power. Dated this —— day of ——, 188—.

C. D.

Witness to the signature of the said C. D., G. H., of (*residence and addition*).

(*y*) See R. S. C. Ord. LI. 1; LV. 2 (14); and note (*x*), *supra*. For forms of order, see 2 Seton, 801, No. 2, 849, No. 5. As to sales free from, or subject to, incumbrances, *Ibid.*, 1396.

(*z*) If the estate is unincumbered, vary the form accordingly.

(*a*) As to the consent of an incumbrancer to a sale, and as to the interest, in lieu of notice, to which he is entitled, see 2 Seton, 822.

1288.
Summons for the appointment of a stranger to conduct the sale (*b*).
[Dan. Pr. 1075.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that A. B., of (*residence and addition*), gentleman, one of the solicitors of the Supreme Court (he consenting), may be appointed to conduct the sale directed by the judgment [*or*, order] dated the ——, 188—, of the estates therein mentioned: the plaintiffs and defendants respectively having liberty to bid at the said sale; and that the costs of the said A. B. of and incident to such sale may be provided for in such manner as the Judge shall hereafter direct.

1289.
Summons for delivery out, for the purposes of the sale, of documents deposited in Court.
[Dan. Pr. 1075.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff;

Or, defendant—*or*, of A. B., the person appointed to conduct the sale in this action—*or as may be*;

that (*Describe the documents; as thus:*

the several deeds and documents specified in the schedule to the affidavit of the defendant C. D., filed the ——, 188—, and deposited by him with the Senior Master of the Supreme Court of Judicature, pursuant to the order dated the ——, 188—, or such of them as the applicant may deem necessary),

may be delivered out to the applicant, or to Messrs. E. F. and G. H., his solicitors, or one of them, to enable him [*or*, them] to prepare for and conduct the sale directed by the judgment [*or*, order] dated the ——, 188—: the applicant undertaking to re-deposit the same whenever required so to do by the Judge; and that, in the meantime, the parties entitled to inspect the documents so delivered out shall be at liberty at all seasonable times, upon reasonable notice, to inspect the same at the office of the said Messrs. E. F. and G. H., situate at, *&c.*; and to take copies and abstracts thereof, and extracts therefrom, as they may be advised, at their expense.

1290.
Particulars of sale (*c*).
[Dan. Pr. 1075.]

(1.) Introductory.

(*Short title and reference to the record.*)

Particulars and conditions of sale of (*Insert a general description of the property; as thus:*

certain freehold and leasehold estates, situate in the parish of ——, in the county of ——: comprising a freehold farm called "Manor Farm," containing about 180 acres of arable, meadow, and pasture land; and four leasehold cottages situate in Bakewell Lane, adjoin-

(*b*) If the parties to the action have all liberty to bid, and cannot agree on a solicitor to conduct the sale, the official solicitor will be called in, and the conduct committed to him. As to the conduct of the sale of trust property, see R. S. C. Ord. L. 10; and note (*x*), *supra*. As to the conduct of a sale in other cases, see Dan. Pr. 1074; 2 Seton, 1395, 1396.

(*c*) As to the preparation and settlement of particulars and conditions of sale, see Sugd. V. & P. 42—43, 97, 98; Dart, 109—176; 1 Davidson Conv. 505—606; 1 Prideaux Conv. 1—76. For a collection of forms of particulars and conditions, see Cox's Forms, 238—313, 3rd ed. As to particulars and conditions generally, see 2 Seton, 1394, 1395.

ing the said farm, held for an unexpired term of about 70 years at a nominal rent):

which will be sold by auction by Mr. L. M., with the approbation of his lordship Mr. Justice ——, the Judge to whom this action [*or*, matter] is assigned: pursuant to the judgment [*or*, order] therein dated the —— day of ——, 188—: at the —— Hotel, at ——, in the county of ——, on ——, the —— day of ——, 188—, at (5 for 6) o'clock in the evening, in —— lots.

Particulars and conditions of sale may be had, gratis, of Mr. A. B., of ——, in the county of ——, solicitor; of Messrs. C. and D., of, *&c.*; of the auctioneer at ——; and at the place of sale (*d*).

PARTICULARS.

(2.) Formal particulars.

Lot 1. A freehold farm called "Manor Farm," situate at ——, in the parish of ——, and county of ——: consisting of 180 acres of arable, meadow, and pasture land, in a high state of cultivation, and a large and commodious farmhouse, brickbuilt and tiled, containing ten rooms: with large barn, cart sheds, stables, and other outbuildings. This lot is in the occupation of Mr. A. B., under an agreement which expires at Michaelmas next, at the annual rent of £300. The farm is subdivided as follows:—

No. on plan annexed.	Description.	State.	Quantity. A.	R.	P.
140	House and homestead . .		0	2	0
141	Homeclose	Meadow . .	4	0	0
143	Long ten acres	Arable . . .	10	2	0
	(*Set out the rest of the parcels in like manner.*)				
		Total .	180	0	0

Lot 1 will be sold subject to a right of way, reserved to the owner of the adjoining lands, and his servants, and others, across the long ten acres, by a footpath running from west to east.

Lot 2. Four leasehold cottages, each containing four rooms and a closet, and a small garden to each cottage: all situate in Bakewell Lane, adjoining the long ten acres.

Lot 2 is held under a lease for a term of 80 years from Lady day, 18—, at a ground-rent of £——; and is now in the several occupations of C., D., E., and F. as weekly tenants, at rentals amounting to £—— per annum.

(*d*) The public are never to be referred to the Judge's Chambers as a place where prints of the particulars and conditions may be obtained: Dan. Pr. 1081, note (*k*)

1291.

Memorandum of direction to the conveyancing counsel, to advise on and settle the conditions of sale (*e*). [Dan. Pr. 1076.]

Formal parts: see Form 1202.

Mr. Justice —— has directed that an abstract of title to the estates by the judgment [*or*, order] in this action [*or*, matter] dated the —— day of ——, 188—, directed to be sold: and which are comprised in the particulars to which I have put my initials: be laid before the conveyancing counsel in rotation [*or as may be*] (*f*), for his opinion thereon, with a view to such sale; and to advise what, if any, special conditions of sale are rendered necessary or proper by the state of the title; and that such special conditions, if any, be settled by such counsel.

1292.

Ordinary conditions of sale (*g*). [Dan. Pr. 1077.]

CONDITIONS OF SALE.

1. No person is to advance less than £—— at each bidding. (1.) Advance at each bidding.

2. The sale is subject to a reserved bidding for each lot: which has been fixed by the Judge to whom this cause is assigned [and the vendor reserves a right to bid (*i*)]. (2.) Reserved bidding (*h*).

3. Each purchaser is at the time of sale to subscribe his name and address to his bidding; and the abstract of title, and all written notices, and communications, and summonses, are to be deemed duly delivered to and served upon the purchaser, by being left for him at such address: unless or until he is represented by a solicitor. (3.) Bidding paper (*j*).

4. Each purchaser is, at the time of sale, to pay a deposit of £—— (4.) Deposit (*k*).

(*e*) See R. S. C. Ord. LI. 2; and note (*x*), *supra*. As to the root of title, and the title to be shown to different species of property, see the Vendor and Purchaser Act, 1874 (37 & 38 Vict. c. 78), ss. 1—3; the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict. c. 41), s. 3; Sugd. V. & P. 364—381; Dart, 279 *et seq.*; 1 Davidson, 527—538; 1 Prideaux, 1—12; and as to the preparation of the abstract, see Sugd. V. & P. 405—411; Dart, 279—406; 1 Davidson, 523—526; 1 Prideaux, 135—145. An affidavit verifying the abstract is not required, preparatory to a sale by the Court: Dan. Pr. 1076, note (*t*).

(*f*) As to obtaining the reference to the Conveyancing Counsel in rotation, or to one in particular of such counsel, see note (*a*), at p. 494. For form of note of the rotation name, see Form 1203.

(*g*) For this form, see R. S. C. Ord. LV. 75; App. L., No. 15.

(*h*) Where the property is to be sold without reserve, this condition is varied accordingly. As to the form of this condition generally, see the Sale of Land by Auction Act, 1867 (30 & 31 Vict. c. 48), ss. 5, 8. As to reserved biddings, see Dan. Pr. 1079; and Forms 1298, 1299.

(*i*) The words within brackets are not in the official form, but the condition should contain such a provision: see 30 & 31 Vict. c. 48, ss. 5, 8.

(*j*) As to the bidding paper, see Forms 1308, 1316.

(*k*) This is to be inserted only when a deposit is directed; in which case, the

per cent. on the amount of his purchase-money to A. B., the person appointed by the said Judge to receive the same.

(5.) Certifying result of sale (*l*).

5. The Chief Clerk of the said Judge will after the sale proceed to certify the result; and ——, the —— day of ——, 188—, at —— o'clock in the ——noon, is appointed as the time at which the purchasers may, if they think fit, attend, by their solicitors, at the Chambers of the said Judge, at the Royal Courts of Justice, London, to settle such certificate. The certificate will then be settled; and will in due course be signed and filed, and become binding, without further notice or expense to the purchasers.

(6.) Time for delivery of the abstract (*m*); and objections and requisitions.

6. The vendor is, within —— days (*n*) after such certificate has become binding, to deliver to each purchaser, or his solicitor, an abstract of the title to the lot or lots purchased by him, subject to the stipulations contained in these conditions. And each purchaser is, within four (*o*) days after the actual delivery of the abstract, to deliver at the office of Mr. A. B., solicitor, at C., in the county of D., a statement in writing of his objections and requisitions (if any) to or on the title as deduced by such abstract; and upon the expiration of such last-mentioned time—and in this respect time is to be deemed of the essence of the contract—the title is to be considered as approved of and accepted by such purchaser, subject only to such objections and requisitions if any.

(7.) Ascertaining value of timber (*p*).

7. Each purchaser is, in addition to the amount of his bidding at the sale, to pay the value of all timber and timberlike trees, tellers, and pollards, if any, on the lot purchased by him, down to 1*s.* per stick inclusive: the amount thereof to be ascertained by a valuation to be made in manner following; that is to say:—each party (vendor and purchaser), or their respective solicitors, is, within —— days after the Chief Clerk's certificate has become binding, to appoint by writing one valuer, and give notice in writing to the other party of such appointment; and the valuers so appointed are to make such valuation; but before they commence their duty, they are to appoint an umpire by writing; and the decision of such valuers, if they agree, or of such umpire, if they disagree, is to be final; and in case the purchaser shall neglect or refuse to appoint a valuer, and give notice thereof, in the manner and within the time above specified, the valuation is to be made by the valuer appointed by the vendor alone, and his valuation is to be final.

person appointed to receive the deposit must give security. As to deposit, see Dan. Pr. 1080; and Forms 1302—1305.

(*l*) See Forms 1310, 1318.

(*m*) See R. S. C. Ord. LI. 2; and note (*x*), *supra*; and Form 1328.

(*n*) The ordinary period is four or seven days after the certificate has become binding: Dan. Pr. 1086, note (*f*).

(*o*) *Sic* in official form; in practice the time is usually fourteen days.

(*p*) For form of particulars and conditions of sale of timber, see Dan. Forms, 3rd ed., No. 1185. For form of order for sale of timber, see 2 Seton, 1262, No. 6. For the practice as to sale of timber by auction, see Dan. Pr. 1109, 1110.

8. Each purchaser is, under an order for that purpose to be obtained by him,

or, in case of his neglect, by the vendors at the costs of the purchaser (*r*),

upon application at the Chambers of the said Judge, to pay the amount of his purchase-money

(after deducting the amount paid as a deposit), together with the amount of the valuation under the 7th condition, if any (*s*),

into Court, to the credit of (*&c.; as in the judgment or order directing the sale*), on or before the —— day of ——, 188—; and if the same is not so paid, then the purchaser is to pay interest on his purchase-money,

including the amount of such valuation (*t*),

at the rate of £—— per cent. per annum, from the —— day of ——, 188—, to the day on which the same is actually paid (deducting property tax (*u*)). Upon payment of the purchase-money in manner aforesaid, the purchaser is to be entitled to possession, or to the rents and profits, as from the —— day of ——, 188— (*v*), down to which time all outgoings are to be paid by the vendors.

(8.) Payment of purchase-money (*q*).

Possession. Outgoings.

9. If any error or misstatement shall appear to have been made in the above particulars, such error or misstatement is not to annul the sale, nor entitle the purchaser to be discharged from his purchase; but a compensation is to be made to, or by, the purchaser, as the case may be; and the amount of such compensation is to be settled by the said Judge at Chambers.

(9.) Compensation (*w*).

(*Add to these, such conditions respecting the title and title deeds, as the conveyancing counsel shall advise to be necessary or proper* (*x*).)

Lastly. If the purchaser shall not pay his purchase-money at the time above specified, or at any other time which may be named in any order for that purpose, and in all other respects perform these conditions, an order may be made by the said Judge, upon application at Chambers, for the resale of the lot purchased by such purchaser, and for payment by the purchaser of the deficiency, if any, in the price which may be obtained upon such resale, and of all costs and expenses occasioned by such default.

(10.) Resale on default (*y*).

(*q*) See Forms 1329—1331, 1333.
(*r*) See Form 1352.
(*s*) This must be altered, if the 4th or 7th condition is not inserted.
(*t*) This must be omitted, if the 7th condition is not inserted.
(*u*) The words within brackets are not in the official form, but should be inserted. As to the effect of omitting them, see Dan. Pr. 1091.
(*v*) See Forms 1329, 1330.
(*w*) See Forms 1333, 1334.
(*x*) See Form 1293.
(*y*) See Forms 1352, 1353.

1293.

Examples of special conditions of sale (*z*).

(1.) Rescission of the contract of sale (*a*).

If any purchaser shall make any valid objection or requisition which the vendor may be unable to remove or comply with, such purchaser may be discharged from being purchaser by an order of the Judge; and, notwithstanding intermediate negotiations, such purchaser shall be entitled to a return of his deposit (if any), but shall not, unless the Judge shall otherwise direct, be entitled to any interest, costs, expenses, or damages in respect of his purchase.

Or, If the purchaser shall insist on any objection or requisition which the vendors shall consider themselves unable, or, on the ground of expense, or for any other reason which the Judge shall consider sufficient, shall decline to remove or comply with, the vendors, with the sanction of the Judge, shall, notwithstanding any intermediate negotiation, and although they may have insisted that the objections and requisitions are untenable, be at liberty, by notice in writing, signed by their solicitors, to rescind the contract, upon such terms in all respects as the Judge shall direct.

(2.) Root of title; earlier title not to be required.

The title shall commence with indentures dated, *&c.* The purchaser shall not, notwithstanding any recital, reference, notice, or covenant for production, of or to prior title, be at liberty to investigate or require any explanation or make any requisition or objection as to any title, or evidence of title, or any other matter whatsoever, prior to the said commencement, or appearing by such recital, reference, notice or covenant; and the benefit of this condition shall not be waived or affected by the vendor furnishing an abstract of earlier title, or replying to any requisition of, or giving any information to, the purchaser, or by reason of anything being specifically provided for by these conditions; and every abstracted deed or document of title, dated more than twenty years prior to the day of sale, shall be accepted as sufficient evidence of the descriptions and characters of parties, facts, matters, and conclusions of law recited, stated, implied, or assumed therein.

(3.) Proceedings in action to be conclusive.

All facts or matters admitted or proved in the above-mentioned action of A. *v.* B., or certified by the Chief Clerk of the Judge to whom that action is assigned, shall be deemed thereby conclusively evidenced.

(4.) Easements.

The property is believed, and shall be taken, to be correctly described, and is sold subject to all easements (if any) subsisting therein.

(5.) Identity of parcels, &c.

The purchaser shall admit the identity of the property purchased by him with that comprised in the muniments offered by the vendors as the title to such property, upon the evidence afforded by a comparison of the descriptions in the particulars and muniments, and of a declaration, to be made (if required) at the purchaser's expense, that the property sold is held under the abstracted title; and the purchaser shall not

(*z*) Form 1292 (9). For collections of special conditions of sale, see Wolstenholme and Turner, 189—205; Cox's Forms, 3rd ed. 267—313; 1 Davidson, 607—734; 1 Prideaux, 36—76.

(*a*) See Forms 1355, 1356.

make any objection or requisition founded upon any variance between the present measurements and the quantities stated in the abstracted muniments ; and the purchaser shall be deemed to buy with full notice of the state of the property as respects repairs, insurance, party walls, and all other matters.

(6.) Expenses to be borne by purchaser.

If the purchaser shall, consistently with these conditions, require an abstract or the production of any deed or document not in the vendor's possession, or any office, attested, or other copy of, or extract from, any deed or document, whether in the vendor's possession or not, whether for the purpose of verifying the abstract or of accompanying or completing the title, or otherwise, or any affidavit, statutory declaration, certificate, or other evidence, or any further information as to the said action of A. *v.* B. than the abstract of the pleadings and judgment [*or*, order for sale], and any subsequent orders, or the concurrence in his conveyance of any person other than the vendors, the expense of complying, or endeavouring to comply, with every such requisition shall be borne by the purchaser : who shall also bear the expense of stamping or restamping any unstamped or insufficiently stamped muniments of title, should any such there be (which however is not known to be the case), and of all searches, inquiries, and journeys for any of the above purposes.

(7.) Covenants for title.

The purchaser shall not require from any conveying party any other covenant than a covenant that such party has not incumbered, or require for any purpose the concurrence of any person in respect of any beneficial interest bound by the judgment or order for sale.

(8.) Title deeds ; acknowledgment of right to production.

The purchaser shall be entitled, on the completion of his purchase, to the custody of such of the deeds and muniments of title in the possession of the vendors as relate exclusively to the property sold ; and as to such deeds and muniments of title in the possession of the vendors as relate to the property sold, and also to any other property or matter, the same will be retained by the vendors : who will give, at the cost of any purchaser requiring it, a statutory acknowledgment of the right of the purchaser to production of documents so retained and to delivery of copies thereof, but is not to be required to give any undertaking or covenant for safe custody thereof (*b*).

1294.

Certificate, verifying copy of special conditions as settled by the conveyancing counsel (*c*). [Dan. Pr. 1078.]

(*Short title.*)

We [*or*, I] certify the above [*or*, within] to be a true copy of the draft conditions of sale as settled by Mr. D., the conveyancing counsel in this action [*or*, matter].

E. & F., solicitors for the plaintiff [*or as may be*],

——, 188—.

(*b*) See Wolstenholme and Turner, 202.

(*c*) This certificate is usually required whenever the original draft, as settled by the conveyancing counsel, is not left at Chambers.

1295.

Affidavit as to the mode of lotting. [Dan. Pr. 1079.]

Formal parts: see Form 6.

1. (*State qualifications of deponent; as thus:* I have for —— years last past been engaged in the business of an auctioneer and land and estate agent; and for —— years last past I have carried on such business at —— aforesaid; and I have had considerable experience in the mode of lotting and selling land and house property).

2. I know and am well acquainted with the estates situate at ——, in the county of ——, proposed to be sold in this action and described in the paper writing marked A., now produced to me (*d*).

3. On the —— day of ——, 188—, I went over the said estates, and made a careful survey thereof, for the purpose of forming an opinion as to the best mode of dividing and allotting the said estates for the said sale thereof.

4. The said paper writing, marked A., sets forth a true and correct description of the said estates, to the best of my knowledge and belief, and the mode in which, in my judgment and opinion, it will be desirable to lot and divide the same for the purposes of the said sale.

5. In my judgment and belief the said estates will be sold to the most advantage, and will be likely to realise the best prices, if the scheme of division and allotment set forth in the said paper writing, marked A., be adopted.

1296.

Affidavit of fitness of proposed auctioneer. [Dan. Pr. 1079.]

Formal parts: see Form 6.

1. I have for —— years last past, known and been well acquainted with L. M., of (*residence and addition*), auctioneer and land and estate agent; and during all that time the said L. M. has carried on business as an auctioneer and land and estate agent at ——, aforesaid [*or as may be*].

2. I have on several occasions employed the said L. M. as an auctioneer and land valuer; and am also acquainted with several persons who are in the habit of employing him in that capacity; and he has invariably given entire satisfaction to me, and I believe also to such other persons.

3. The said L. M. is a person of respectability and integrity, and of considerable ability as an auctioneer and land and estate agent; and in my judgment he is a fit and proper person to be employed to sell the estates, situate at ——, in the county of ——, proposed to be sold in this action.

1297.

Advertisement of the sale (*e*). [Dan. Pr. 1078.]

To be sold, pursuant to a judgment [*or*, order] of the High Court of Justice, made in an action, Jones *v.* Brown [*or as may be*], with the approbation of Mr. Justice ——, by Mr. L. M., the person appointed

(*d*) Exhibit same. For form of memorandum thereof, see Form 28.

(*e*) As to the signature to and insertion of the advertisement, see Form 1165, note (*t*). A fee of 10*s.* is payable on the advertisement: by a stamp impressed thereon: Ord. as to S. C. Fees, 1884, Sched. No. 126; Ord. as to Fees, &c., July, 1884, p. 12.

by the said Judge, at the —— Hotel, at ——, in the county of ——, on ——, the —— day of ——, 188—, at (5 for 6) o'clock in the evening, in —— lots, certain freehold (*Describe the property shortly; see* Form 1290). Particulars and conditions of sale may (*Conclude as in* Form 1290). Dated (*&c.; Conclude as in* Form 1165).

1298.

Affidavit as to the amount to be fixed for the reserved biddings. [Dan. Pr. 1079.]

Formal parts: see Form 6.

1. I have carefully examined and surveyed the estates particularly described in the printed particulars of sale marked A., now produced and shown to me (*f*), in order to form an opinion as to the value thereof, and the amounts which the said estates ought to realise on the sale thereof advertised to take place on the —— day of ——, 188—.

2. I have, in the paper writing marked B., now produced to me (*g*), set forth, in the first column, the number of the lots into which the said estates have been divided for the purposes of the said sale; and in the second column, opposite the numbers of the said lots respectively, the full values of the said lots respectively; and in the third column, opposite the said numbers respectively, the amounts which, in my judgment and belief, should be fixed as the reserved biddings for the said lots respectively on the said sale.

B.

1299.

Valuation B. referred to in Form 1298. [Dan. Pr. 1079.]

(*Short title and reference to the record.*)

This paper writing, marked B., was produced and shown to L. M., and is the paper writing so marked referred to in his affidavit sworn in this action on the —— day of ——, 188—, before me:

E. F., a Commissioner, &c. [*or as may be; see* Form 9].

No. of Lot.	Value.	Proposed reserved bidding.
	£	£
1	2000	1850
2	500	450

L. M.

(*f*) Exhibit same. For form of memorandum of exhibit, see Form 28.

(*g*) *Ibid.* Care must be taken to refer to the valuation as an exhibit: so that neither the value of any lot, nor the price which, in the opinion of the deponent, it ought to fetch at the sale, may be disclosed by the affidavit when filed: R. S. C. Ord. LI. 4; and note (*x*), at p. 539. Should this rule be neglected, either the affidavit should not be filed: in which case the original must be used at Chambers, instead of an office copy: or another affidavit complying with the rule must be obtained: Dan. Pr. 1079, note (*s*).

1300.
Summons for leave to bid at the sale (*h*).
[Dan. Pr. 1081, 1082.]

Formal parts : see Form 43 *or* 1077.

on the part of the plaintiff,

Or, of the defendant—*or*, of X. Y. : who is attending the proceedings [*or as may be*] ;

that he may be at liberty to bid at the sale directed by the judgment [*or*, order], dated the —— day of ——, 188—, of the estates therein mentioned.

1301.
Certificate verifying print of particulars and conditions (*i*).
[Dan. Pr. 1081.]

(*Short title.*)

We [*or*, I] certify the above [*or*, within] to be a correct print of the particulars and conditions of sale, as settled in the Chambers of Mr. Justice ——, in this action.

E. & F., solicitors for the plaintiff [*or as may be*].

——, 188—.

1302.
Recognizance as security for deposits (*j*).
[Dan. Pr. 1080.]

(*Short title.*)
Mr. Justice ——, the Judge to whom this action is assigned, has approved of, and allowed this recognizance.
R. M., Chief Clerk.

L. M. (*the principal*), of (*residence and addition*), C. D., of, *&c.*, and E. F., of, *&c.* (*the sureties*) (*k*), before our Sovereign Lady the Queen in Her High Court of Justice personally appearing, do acknowledge themselves, and each of them doth acknowledge himself, to owe to J. W. H. and R. M., the two senior Chief Clerks of the Honourable Mr. Justice ——, the Judge of the said Court to whom the cause [*or*, matter] hereinafter mentioned is assigned (*l*), the sum of £—— (*m*) of good and lawful money of Great Britain : to be paid to the said J. W. H. and R. M., or one of them, or the executors or administrators of them, or one of them ; and unless they do pay the same, they the said L. M., C. D., and E. F., do grant, and each of them doth grant, for himself, his heirs, executors, and administrators, that the said sum of £—— shall be levied, recovered, and received, of and from them and each of them, and of and from all and singular the manors, messuages, lands, tenements, and hereditaments, goods and chattels of them and each of them, wheresoever the same shall or may be found. Witness our said Sovereign Lady Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, at the Royal Courts of Justice, the —— day of ——, 188—.

(*h*) As to leave to bid, see 2 Seton, 1396. For form of order, *Ibid.*, 1391, No. 2.

(*i*) See R. S. C. Ord. LI. 5 ; and note (*x*), at p. 539.

(*j*) In some of the Chambers it is the practice, in cases where the deposits are not expected to exceed 200*l.*, to take, instead of a recognizance, an undertaking signed by the auctioneer to pay into Court within a limited time the amount of deposits. For form of undertaking, see Form 1304. It is not the usual practice to require the recognizance to be enrolled, until the time for payment into Court of the deposits has expired. The recognizance must be engrossed on parchment.

(*k*) Where, as often happens, one surety is deemed sufficient, the form must, of course, be varied accordingly.

(*l*) See R. S. C. Ord. LX. 4.

(*m*) This should be double the probable amount of the deposit.

Whereas by a judgment [*or*, an order] of the High Court of Justice, made in an action wherein A. B. is plaintiff, and C. D. is defendant,

Or, wherein A. B. and others [*or*, another] are plaintiffs, and C. D. and others [*or*, another] are defendants,

(188—, B. No. ——),

Or, in a certain matter there depending, intituled "In the matter of ——,"

and dated the —— day of ——, 188—, it was ordered that the real and leasehold estates of G. H., the testator in the said action [*or as may be directed by the judgment or order*], should be sold, with the approbation of the Judge: And whereas the said estates have been ordered by the said Mr. Justice —— to be sold on the —— day of ——, 188—; and by one of the conditions of such sale, approved by the said Judge, it is provided that each purchaser shall, immediately after the sale, pay into the hands of the said L. M. (the person appointed by the said Judge to receive the same), a deposit of £—— per cent. on the amount of his purchase-money: And whereas the said Judge has directed the said L. M. to give security that he will duly account for all moneys to be received by him by virtue of the said condition; and has approved of the above bounden C. D. and E. F. as sureties for the said L. M.; and has also approved of the above-written recognizance, with the underwritten condition, as a proper security to be entered into by the said L. M., C. D., and E. F., pursuant to the said order, and the Rules of the Supreme Court in that behalf; and in testimony of such approbation, the Chief Clerk of the said Judge has signed an allowance in the margin hereof:

Now the condition of the above-written recognizance is such, that if the said L. M. do and shall duly account for all and every the sum and sums of money which he shall receive on account of the purchase-moneys of the said estates, or any part thereof,

If it is intended that the recognizance shall extend to any future sale, add: at the said sale; or, in case the said estates, or any part thereof, shall not be sold at the said sale, then also for all and every the sum and sums of money which the said L. M. shall receive on account of the said purchase-moneys of the said estates, or any part thereof, at any subsequent sale or sales (*n*),

and do and shall duly pay the same in such manner, and at such time or times, as the said Judge has directed, or shall hereafter direct: then the above recognizance shall be void and of none effect: otherwise the same is to be and remain in full force and virtue.

L. M. }
C. D. } Taken and acknowledged by the above-named L. M., C. D., and E. F., at ——, in the (county) of ——, this —— day of
E. F. }
——, 188—,

before me,

(*Signature, and style of office, of officer or commissioner by whom the recognizance is taken: see* Form 9.)

(*n*) See Dan. Pr. 1085, note (*x*).

1303.

Affidavit of the sureties as to their solvency (*o*). [Dan. Pr. 1080.]

(*Title and reference to the record.*)

We, C. D., of (*residence and addition: as in the recognizance*), and E. F., of, *&c.*, the proposed sureties that L. M., of (*residence and addition of the principal: as in the recognizance*), will duly account for the deposits to be received by him on the sale in this action [*or*, matter], severally make oath and say as follows:—

1. First, I, the said C. D., for myself say, that I am, after payment of all my just debts and liabilities, well and truly worth the sum of £—— (*Insert the amount for which he is to be bound by the recognizance*).

2. And I, the said E. F., for myself say, that I am (*Continue as in paragraph* 1, *to the end*).

Sworn (*&c.: see* Form 10).

1304.

Undertaking by auctioneer to pay in deposits (*p*). [Dan. Pr. 1080, note (*b*).]

(*Short title and reference to the record.*)

I, A. B., the person appointed by the Judge to whom this action is assigned to sell the real estate by the order dated ——, 188—, directed to be sold, do hereby undertake to pay the deposits to be received by me on such sale into Court to the credit of this action, at such time, and in such manner, as the Judge shall direct.

Dated ——, 188—.

A. B.

1305.

Summons for payment or transfer into Court of a security fund, instead of giving a recognizance (*q*). [Dan. Pr. 1081.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that A. B., the person appointed to receive the deposits payable by the purchasers on the sale, on the —— day of ——, 188—, directed by the judgment [*or*, order], dated the —— day of ——, 188—, may be at liberty, on or before the —— day of ——, 188—, to pay the sum of £A, into Court, to the credit of

Or, to transfer the sum of £B, consolidated £3 per cent. annuities [*or as may be*], into Court to the credit of

this action [*or*, matter], B. *v.* D., 188—, B. No. —— [*or as may be*], "Security for deposits account:" as security for the deposits to be received by him as aforesaid:

If it is desired to invest the cash or the interest to accrue on the stock, add: and that the said £A. [*or*, the interest to accrue on the said annuities] may be laid out in consolidated £3 per cent. annuities [*or as may be*], on the like credit:

subject to further order.

(*o*) Where one surety is deemed sufficient, this form must be varied accordingly.

(*p*) See note (*j*), *supra*.

(*q*) For form of order, see 2 Seton, 1392, No. 5.

1306.
Directions to auctioneer, as to the conduct of a sale in several lots, where there are reserved biddings.
[Dan. Pr. 1082.]

Mr. Justice ——'s Chambers. } (*Short title and reference to the record.*)

Mr. L. M., the person appointed to sell the estates advertised for sale in this action [*or*, matter], is requested to attend to the following directions :—

R. M., Chief Clerk.

The sale is to be conducted in accordance with the accompanying printed particulars and conditions, signed by the Chief Clerk (*r*). This print is to be carefully preserved, and returned to the Judge's Chambers: with the affidavit of the result of the sale (*s*).

The sale is to be subject to the reserved biddings specified in the accompanying note (*ss*). This note is not to be opened till the time of sale. The reserved bids are not to be divulged to any person, either at, or at any time after, the sale.

In case there is no bidding for any lot equal to, or higher than, the reserved bid, the person appointed to sell is to declare that such lot is not sold, but has been bought in on account of the persons interested in, or entitled to, the property.

The accompanying bidding-paper (*t*) is to be carefully filled up. The highest sum bid, whether the lot is sold or not, is to be inserted in the second column. In the event of no person bidding for any lot, the words "no bidding" are to be written in the second column, opposite the number of such lot. When, although there is a bidding, the lot is not sold, the words "not sold" are to be written in the third column. The purchasers are to sign their names in the third column, and any person who purchases as agent for another must so sign : otherwise he must be treated as the purchaser. The purchaser's address and quality are to be fully stated in the fourth column.

When the purchaser's signature is not plain, or initials are used, a note must be put at the foot of the bidding-paper, as follows : "The name of the purchaser of lot —— is ——" (*u*).

1307.
Note of the reserved biddings (*v*).
[Dan. Pr. 1082.]

Commence as in Form 1306.

The reserved biddings fixed by Mr. Justice ——, to which the sale in this action [*or*, matter] is to be subject, are as follows, viz. :—

For Lot 1	£800
For Lot 2	£250

(*r*) See Form 1310.
(*s*) *Ibid.* 1309.
(*ss*) *Ibid.* 1307.
(*t*) *Ibid.* 1308.
(*u*) Insert the name in full, and plainly.
(*v*) The blanks in this and succeeding forms have been filled up, as guides only in using forms of the like nature.

For Lot 3	£300
For Lot 4	£700
For Lot 5	£650
For Lot 6	£710

R. M., Chief Clerk.

1308. Bidding-paper on a sale in several lots. [Dan. Pr. 1083.]

B.

(*Short title.*)

This bidding-paper, marked B., was produced and shown to L. M., and is the same as is referred to in his affidavit sworn this —— day of ——, 188—, before me,

E. F., a commissioner, &c. [*or as may be: see* Form 9.]

We, whose names are hereunder subscribed, respectively bid at the sale by auction in the above action [*or*, matter], on the —— day of ——, 188—, the sums set opposite to our respective names for, and became the purchasers of, the respective lots specified in the particulars produced at such sale, the numbers of which are set opposite to our respective names, subject to the conditions also produced at such sale.

No. of Lot.	Amount of highest bidding.	Signatures of the purchasers of the lots sold.	Purchaser's address and quality.
1	£900	Edward Thornton . .	Epping, Essex, Farmer.
2	£200	Not sold.	
3	No bidding.		
4	No bidding.		
5	£500	Not sold.	
6	£750	Arthur Cuthbertson, agent for T. E. Masson (*w*).	Ilford, Essex, Esquire.

Note.—The name of the purchaser of Lot 6 is Thomas Edward Masson.

(*w*) See Dan. Pr. 1083.

1309.

Affidavit of result of a sale in several lots (*x*). [Dan. Pr. 1083.]

(*Title and reference to the record.*)

I, L. M., of (*residence and addition*), the person appointed by the Judge to whom this action [*or*, matter] is assigned to sell the estates comprised in the particulars hereinafter referred to, make oath and say as follows :—

1. I did, at the time and place, in the lots, and subject to the conditions specified in the particulars and conditions of sale now produced and shown to me and marked with the letter A. (*y*), put up for sale by auction the estates described in such particulars. The result of such sale is truly set forth in the bidding-paper marked with the letter B. now produced and shown to me (*z*).

2. *If any lots were sold, say :* The sums set forth in the second column of such bidding-paper are the highest sums bid for the respective lots, the numbers of which are set forth in the first column, opposite to such respective sums ; and the persons whose names are subscribed in the third column of such bidding-paper as purchasers, were respectively the highest bidders for, and became the purchasers of, the respective lots, the numbers whereof are set opposite to such respective names in the said first column of the said bidding-paper, at the prices or sums set opposite to their respective names in the said second column thereof.

3. *If any lots were bid for, but not sold, add :* The several lots opposite to the numbers of which I have, in the third column of the said bidding-paper, written the words "Not sold," were not sold : no person having bid a sum equal to, or higher than, the reserved bidding fixed by the said Judge.

4. *If any lots were not bid for, add :* No person bid any sum whatever for either of the lots opposite the numbers of which I have in the second column of the said bidding-paper written the words "No bidding."

5. *In every case, add :* The said sale was conducted by me in a fair, open, and candid manner, and according to the best of my skill and judgment.

6. *If a deposit was paid* (*a*), *add :* I have received the sums set forth in the fourth column of the schedule hereto, as deposits from the respective purchasers whose names are set forth in the second column of such schedule, opposite the said respective sums, in respect of their respective purchase-moneys ; leaving due in respect of the said purchase-

(*x*) For the above form, see R. S. C. Ord. LV. 75 ; App. L., No. 16. An office copy of the affidavit, together with the exhibits, must be left at the Judge's Chambers at least one clear day before the day appointed by the conditions for settling the certificate of the result of the sale : R. S. C. Ord. LI. 6 ; and note (*x*), at p. 539.

(*y*) Exhibit the print signed by the Chief Clerk : see Form 1306. For form of memorandum of exhibit, see Form 28.

(*z*) See Form 1308.

(*a*) See Form 1292 (4).

moneys, the respective sums set forth in the fifth column of the said schedule.

The Schedule above referred to.

No. of Lot.	Name of purchaser.	Amount of purchase-money.	Amount of deposit received.	Amount remaining due.
		£	£	£
1	Edward Thornton . .	900	90	810
6	Thomas Edward Masson . .	750	75	675
	Totals . £	1650	165	1485

Sworn (*&c.: see* Form 9).

1310.

Chief Clerk's certificate of result of a sale in several lots (*b*). [Dan. Pr. 1084.]

Formal parts: see Form 1410.

The real estates of A. B., the testator in the said judgment [*or*, order] dated the —— day of ——, 188—, named, and thereby [*or as may be*] directed to be sold, have been offered for sale in six lots by public auction, with the approbation of the said Judge, subject to a reserved bidding for each lot, fixed by the said Judge, and according to certain particulars and conditions of sale; and the several persons named in the first column of the (first) schedule hereto were the highest bidders for, and they are allowed by the said Judge to be the purchasers of, the respective lots set opposite to their respective names in the second column of the said schedule, at the prices or sums set opposite to their respective names in the third column of the said schedule.

The purchasers have paid the several sums set opposite their respective names in the fourth column of the said schedule, as deposits, to L. M., the person appointed by the said Judge to receive the same: such sums being the amounts fixed by the said Judge to be paid as deposits by the purchasers respectively at such sale; and the several sums set opposite the respective names of such purchasers in the fifth column of the said schedule remain due from the said purchasers respectively, as the balance of their respective purchase-moneys. The said several sums mentioned in the fourth column of the said schedule, which have been received by the said L. M., amount together to the sum of £165: which sum of £165 the said L. M. is, on or before the —— day of ——, 188—, to pay into Court to the credit of (*&c.; as in judgment or order directing the sale*).

The purchaser of the lot numbered 6 is T. E. M., a defendant in this action: an order dated the —— day of ——, 188—, having given him liberty to bid (*c*).

No person bid for either of the lots numbered 2 and 5 a price equal

(*b*) See Form 1292 (5). As to certifying the result of sale, see 2 Seton, 1397, 1398.

(*c*) As to the course where a party to the suit bids without leave, see Dan. Pr. 1081; and Form 1322.

to, or higher than, the sum fixed as the reserved bidding; and therefore such lots were not sold at such auction.

No person bid for either of the lots numbered 3 and 4.

The particulars of the lands and hereditaments comprised in the respective lots so sold as aforesaid are set forth in the second schedule hereto.

Or, are set forth in the exhibit marked A. to the affidavit of L. M., filed the ——, 188—, and which exhibit is to be filed with this certificate (*d*).

The evidence produced, *&c.*

The (first) Schedule.

Name and address of the purchaser.	No. of Lot.	Price.	Deposit.	Balance remaining unpaid.
		£	£	£
Edward Thornton, of Epping, Essex, Farmer. . .	1	900	90	810
Thomas Edward Masson, of Ilford, Essex, Esquire, by Arthur Cuthbertson, his agent .	6	750	75	675
	Totals	1650	165	1485

The (second) Schedule.

(*Set out the particulars of each lot sold; as in the printed particulars of sale* (*e*).)

Commence as in Form 1306.

The sale is to be conducted in accordance with the accompanying printed particulars and conditions signed by the Chief Clerk (*g*). This print is to be carefully preserved, and returned to the Judge's Chambers with the affidavit of the result of the sale (*h*).

The accompanying bidding-paper (*i*) is to be carefully filled up. The highest sum bid is to be inserted in the second column. In the event of no person bidding for any lot, the words "no bidding" are to be written in the second column opposite the number of such lot.

The purchasers are to sign their names (*Conclude as in* Form 1306).

1311. Directions to the auctioneer, as to the conduct of a sale in several lots, without reserve (*f*). [Dan. Pr. 1083, note (*c*).]

(*d*) This is the print signed by the Chief Clerk; see Forms 1306, 1309.

(*e*) This schedule is, of course, omitted where, as ordinarily happens in practice, the printed particulars are filed with the certificate.

(*f*) See notes to Form 1306.

(*g*) See Form 1301.

(*h*) *Ibid.*, 1309, 1313.

(*i*) *Ibid.*, 1312.

1312.

Bidding paper in like case (*j*). [Dan. Pr. 1083.]

(*Same as* Form 1308 : *omitting all reference to the lots bid for but not sold.*)

1313.

Affidavit, and Chief Clerk's certificate, of result of the sale, in like case (*j*). [Dan. Pr. 1084.]

(*These forms can readily be prepared from* Forms 1309, 1310.)

1314.

Directions to auctioneer, as to the conduct of a sale in one lot, where there is a reserved bidding (*k*). [Dan. Pr. 1083, note (*c*).]

Commence as in Form 1306.

The sale is to be conducted in accordance with the accompanying printed particulars and conditions signed by the Chief Clerk (*l*). This print is to be carefully preserved, and returned to the Judge's Chambers: with the affidavit of the result of the sale (*m*). The sale is to be subject to the reserved bidding specified in the accompanying note (*n*). This note is not to be opened till the time of sale. The reserved bid is not to be divulged to any person, either at or at any time after the sale.

In case there is no bidding equal to, or higher than, the reserved bid, the person appointed to sell is to declare that the property is not sold, but has been bought in on account of the persons interested in, or entitled to, the property.

The accompanying bidding-paper (*o*) is to be carefully filled up.

The purchaser is to sign his name at the foot of the bidding-paper; and any person who purchases as agent for another must so sign: otherwise he must be treated as the purchaser.

The purchaser's Christian and surnames, address, and quality, are to be fully stated in the bidding-paper.

1315.

Note of the reserved bidding on a sale in one lot (*p*). [Dan. Pr. 1082.]

Commence as in Form 1306.

The reserved bidding fixed by Mr. Justice ——, to which the sale in this action [*or*, matter] is to be subject, is the sum of £280.

R. M., Chief Clerk.

1316.

Bidding paper in like case (*p*). [Dan. Pr. 1083.]

B,

(*Short title and reference to the record.*)

This bidding-paper, marked B., was produced and shown to L. M., and is the same as is referred to in his affidavit sworn this —— day of ——, 188—, before me,

E. F., a commissioner, &c. [*or as may be: see* Form 9].

(*j*) See Form 1311. (*k*) See notes to Form 1306. (*l*) See Form 1301.
(*m*) *Ibid.*, 1317. (*n*) *Ibid.*, 1315. (*o*) *Ibid.*, 1316.
(*p*) *Ibid.*, 1292 (3).

I, the undersigned G. H., of —— (*q*), bid at the sale by auction in the above action [*or*, matter], on the —— day of ——, 188—, the sum of £300 for, and became the purchaser of, the property specified in the particulars produced at such sale, subject to the conditions also produced at such sale.

G. H.

1317.

Affidavit of result of the sale, in like case (*r*). [Dan. Pr. 1083.]

(*Proceed as in* Form 1309, *to* as follows.)

1. I did at the time and place, and subject to the conditions, specified in the particulars and conditions of sale, marked A., now produced and shown to me (*s*), put up for sale by auction, in one lot, the estate described in such particulars.

If a sale was effected, add: 2. The sum of £300 set forth in the bidding-paper, marked B., now produced and shown to me (*t*), was the highest sum bid for the said estate; and G. H., whose name is subscribed to the said bidding-paper, was the highest bidder for, and became the purchaser of the said estate, at the said sum of £300.

But if the highest bidding was below the reserve, say: 2. The sum of £250 was the highest sum bid for the said estate; and the said estate was therefore not sold: the said sum being less than the reserved bidding fixed by the said Judge.

Or, if there was no bidding whatever, say: 2. No person bid any sum whatever for the said estate.

In every case, add: 3. The said sale was conducted by me in a fair, open, and candid manner, and according to the best of my skill and judgment.

If a deposit was paid, add: 4. I have received from the said G. H. the sum of £30, as a deposit in respect of the said purchase-money of £300: leaving due from him, in respect of his said purchase-money, the sum of £270.

Sworn (*&c.: see* Form 9).

1318.

Chief Clerk's certificate of result of a sale in one lot, where there was a reserved bidding (*u*). [Dan. Pr. 1084.]

(*Proceed as in* Form 1310, *to* directed to be sold,)

have been offered for sale in one lot by public auction, with the approbation of the said Judge, subject to a reserved bidding fixed by the said Judge, and according to certain particulars and conditions of sale; and G. H., of (*&c.: as in bidding-paper*), was the highest bidder for, and he is allowed by the said Judge to be the purchaser of, the said estate at the price or sum of £300.

The said G. H. has paid the sum of £30, by way of deposit, to L. M., the person appointed by the said Judge to receive the same; and who is to pay such sum of £30 into Court to the credit of (*&c.: as in judgment*

(*q*) Insert the purchaser's name, address, and quality, at length.

(*r*) See Form 1314.

(*s*) This exhibit is to be the print signed by the Chief Clerk; see Form 1314. For form of memorandum of exhibit, see Form 28.

(*t*) See Form 1316.

(*u*) See notes to Form 1310.

or order directing the sale), on or before the —— day of ——, 188— ; and there is due from the said G. H., as the balance of his purchase-money, the sum of £270.

The particulars of the hereditaments so sold as aforesaid are set forth in the schedule hereto [*or as may be: see* Form 1310].

The evidence produced, *&c.*

Schedule.

(*Set out the particulars of the property sold: as in the printed particulars of sale* (*uu*).)

1319.

Directions to the auctioneer as to the conduct of a sale in one lot without reserve (*v*). [Dan. Pr. 1083, note (*c*).]

Commence as in Form 1306.

The sale is to be conducted in accordance with the accompanying printed particulars and conditions signed by the Chief Clerk. This print is to be carefully preserved, and returned to the Judge's Chambers: with the affidavit of the result of the sale (*w*).

The accompanying bidding-paper (*x*) is to be carefully filled up.

The purchaser is to sign his name (*Conclude as in* Form 1314).

1320.

Bidding-paper in like case (*y*). [Dan. Pr. 1083.]

(*Same as* Form 1316.)

1321.

Affidavit and Chief Clerk's certificate of result of the sale, in like case. [Dan. Pr. 1083, 1084.]

(*These forms can readily be prepared from* Forms 1317, 1318.)

1322.

Summons that a party who bid without leave at a sale may be accepted as purchaser. [Dan. Pr. 1082.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that, notwithstanding the applicant had not obtained leave to bid at the sale on the —— day of ——, 188—, of the estates directed to be sold by the judgment [*or*, order] dated the —— day of ——, 188—, he may be certified to be the purchaser of the said estates [*or*, of lot —— of the said estates] at the sum of —— : the price at which he was declared to be the highest bidder for the said estates [*or*, lot] at such sale.

1323.

Summons to compel payment in of deposits received at the sale (*z*). [Dan. Pr. 1084.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that L. M., in the Chief

(*uu*) But see note (*c*), *supra*. (*v*) See notes to Form 1306. (*w*) See Form 1321. (*x*) See Forms 1316, 1320. (*y*) See Form 1319.
(*z*) See 2 Seton, 1397. For form of order, *Ibid.*, 1392, No. 6.

Clerk's certificate [*or*, in the order] dated the —— day of ——, 188—, named, may be ordered, on or before the —— day of ——, 188—, or within seven days after service, to pay the sum of £—— : appearing by the said certificate [*or*, order—*or*, by the affidavit of E. F., filed the ——, 188—] to have been received by him as deposits from the purchasers therein named, on the lots therein mentioned [*or as may be*] : into Court to the credit of (*&c.; as in judgment or order directing the sale*). And that the said L. M. may be ordered to pay the costs of this application.

1324.

Summons to vacate recognizance, or pay out security fund, for deposits (*a*). [Dan. Pr. 1085.]

Formal parts : see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the recognizance dated the —— day of ——, 188—, entered into by L. M., together with C. D. and E. F. as his sureties, may be vacated.

Or, that the £——, cash [*or*, £——, Consolidated £3 per cent. annuities—*or as may be*] in Court to the credit of (*&c. : state what ; see* Form 1305) may be paid [*or*, transferred] to the said L. M.

1325.

Summons to proceed with the sale of unsold lots. [Dan. Pr. 1085.]

Formal parts : see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], to proceed with the sale of the unsold portions of the real estates of the testator [*or as may be*], directed to be sold by the judgment [*or*, order] dated the —— day of ——, 188—.

1326.

Advertisement of a sale by tender (*b*). [Dan. Pr. 1085.]

To be sold by private tender, pursuant to a judgment [*or*, an order] of his lordship Mr. Justice ——, made in an action J. *v.* H. [*or as may be*], all (*Describe the property shortly*).

Tenders are to be sent to the Chief Clerk of Mr. Justice ——, at his Chambers, situate at the Royal Courts of Justice, London, not later than ——, the —— day of ——, 188—.

Particulars and conditions of sale and forms of tender may be obtained gratis of (*Continue as in* Form 1290 (1)). Dated (*&c.: Continue as in* Form 1166).

(*a*) The recognizance is vacated by one of the Chief Clerks to whom it was given, on the proper officer attending with the recognizance : see R. S. C. Ord. LX. 4. The application must be supported by production of an office copy of the Chief Clerk's certificate of the result of the sale, and of the recognizance, where given ; and the Paymaster's certificate of the payment into Court of the deposit, if any, and, in the case of a security fund, of such fund being in Court. A separate application for this order is unusual : as an opportunity will generally occur for engrafting it on some other application in the suit : see Dan. Pr. 1085, note (*r*). Where the recognizance has not been enrolled, no order to vacate the enrolment is, of course, necessary, but the recognizance will be delivered out, on production of office copies of the certificates above mentioned : *Ibid.* On vacating a recognizance a fee of 10*s* is payable : by a stamp impressed on the recognizance : Ord. as to S. C. Fees, 1884, Sched. No. 135 ; Ord. as to Fees, &c., July, 1884, p. 13.

(*b*) For forms of particulars and conditions of a sale, by tender, of partnership property, together with the goodwill, see Dan. Forms, 3rd ed., No. 1140. For form of certificate of result of sale by tender, *Ibid.*, No. 1143. For form o advertisement of a sale by public auction, see Form 1297 ; and see note thereto

1327.

Form of tender (*c*). [Dan. Pr. 1085.]

(*Short title and reference to the record.*)

I, the undersigned A. B., of (*residence and addition*), do hereby tender for, and agree to purchase, subject to the approval of Mr. Justice ——, at the sum of £——, the property comprised in the [*or*, in lot one, *&c.*, of the] within particulars of sale, and upon the terms and conditions within mentioned, and subject to the conditions of sale within contained.

A. B.

Witness to the signature of the said A. B., }
C. D., of (*residence and addition*).

1328.

Summons for delivery of an abstract of title (*cc*). [Dan. Pr. 1086.]

Formal parts: see Form 43 *or* 1077.

on the part of A. B.: who by the Chief Clerk's certificate [*or*, by the order] dated the ——, 188—, has been allowed the purchaser of (lot —— of) the estates directed to be sold by the judgment [*or*, order], dated the ——, 188—: that the plaintiff [*or other person having the conduct of the sale*] may be ordered, on or before the ——, 188—, to deliver to the applicant, or to Mr. C. D., of (*place of business*), his solicitor, an abstract of the title to the said lot [*or*, estates], pursuant to the (6th) of the conditions of sale; and that the said plaintiff [*or other person having the conduct of the sale*] may be ordered to pay to the applicant his costs of this application.

1329.

Summons by the purchaser for leave to pay his purchase-money into Court (*d*). [Dan. Pr. 1090.]

Formal parts: see Form 43 *or* 1077.

on the part of A. B., of, *&c.*: who (*Describe the purchaser: as in* Form 1328):

1. That the applicant, declaring himself content with the title, may, on or before the —— day of ——, 188—, pay into Court, as in the

(*c*) The tender should be written in the fold of a print of the particulars and conditions of sale. A printed form of tender is usually circulated with the particulars and conditions.

(*cc*) As to compelling delivery of the abstract, see 2 Dart, 1208; 1 Davidson, 598; 2 Seton, 1404; and as to the consequences of non-delivery, see Sugd. V. & P. 181, 260, 261; 2 Dart, 1208; 1 Davidson, 525, 596. As to the investigation of the title, verification of the abstract, and examination of the muniments of title, see Sugd. V. & P. 405—412, 423—432; 1 Dart, 306—416; 1 Davidson, 550—557; 1 Prideaux, 135—145; 2 Seton, 1404.

(*d*) As to payment into Court of purchase-money, see 2 Seton, 1405, 1406. The form of summons in the text is framed from the form of order issued by the Registrars in order to comply with the requirements of S. C. Funds Rules, 1884. For forms of order for payment into Court, see 2 Seton, 1399, Nos. 2, 3; and for payment by instalments, *Ibid.*, 1400, No. 4. The summons must be supported by production of the judgment or order directing the sale, an office copy of the Chief Clerk's certificate of the result of the sale, or the order confirming a conditional contract of sale, the conditions or contract of sale, and the valuation of the timber, if any

schedule hereto mentioned, the sum of £—— : being the purchase-money for the said premises.

Or, such sum being made up of £——, the balance of the purchase-money for the premises, after deducting £—— paid as a deposit.

If so: and of £—— : being the amount of the valuation of the timber.

If so: and of £——, for interest on the said £——, at the rate of £(5) per cent. per annum, from the ——, 188—, to the said ——, 188— : less tax (*e*).

2. That, upon such payment being made, the applicant may be let into possession of the said premises, and into the receipt of the rents and profits thereof, from the ——, 188— (*f*); and that all proper parties may be ordered to join in and execute a proper conveyance or assurance of the premises to the applicant, or as he shall direct (*g*): such conveyance or assurance to be settled by the Judge in case the parties differ (*h*).

3. That the funds in Court may be dealt with as directed in the schedule hereto (*i*).

4. That the said sum of £—— (and interest) may not be paid out (except for the purchase of annuities), and that such annuities may not be sold, transferred, or otherwise disposed of, without notice to the applicant.

[Lodgment

(*e*) As to deduction of the property tax, see note (*u*) to Form 1292. The following table shows the fluctuations in the amount of the property tax payable in respect of interest on purchase-money since 5th April, 1875 :—

Statute imposing duty.	DURATION.		Rate of duty in pence per pound.
	From 5th April.	To 5th April.	
38 V. c. 23, s. 3	1875	1876	Two.
39 V. c. 16, s. 6	1876	1877	Three.
40 V. c. 13, s. 6	1877	1878	Three.
41 V. c. 15, s. 8	1878	1879	Five.
42 & 43 V. c. 21, s. 15	1879	1880	Five.
43 V. c. 14, s. 4 / 43 & 44 V. c. 20, s. 50	1880	1881	Six.
44 V. c. 12, s. 19	1881	1882	Five.
45 & 46 V. c. 41, s. 9	1882	1883	Six and a ha
46 V. c. 10, s. 8	1883	1884	Five.
47 & 48 V. c. 25, s. 5 / 48 V. c. 1, s. 2	1884	1885	Six.

(*f*) See Form 1292 (8).

(*g*) See R. S. C. Ord. LI. 3 ; and note (*x*), at p. 539.

(*h*) As to settlement in case the parties differ, see note (*u*), at p. 538.

(*i*) This paragraph in the summons, and the consequent directions in the schedule, are inserted to meet the case of investment of the purchase-money : a direction for which is almost invariably required by the solicitor conducting the sale to be inserted in the order. In strictness, however, there is no obligation on the purchaser to make this application : see Dan. Pr. 1090.

Lodgment and Payment Schedule (*j*).

——, 188— (*jj*).

In the High Court of Justice,
Chancery Division.

(*Short title and reference to the record.*)

Ledger credit :—The said action.—Proceeds of sale of testator's estate (*k*).

LODGMENT.

Particulars of funds to be lodged.	Person to make the lodgment.	AMOUNTS.	
		Money.	Securities.
Balance of purchase-money and interest . Invest and accumulate in consols (*l*) . .	A. B.	£ *s.* *d.* 451 8 0	

PAYMENT.

Funds { £300, money on deposit.
Funds to be lodged as above.

Particulars of payments, transfers, or other operations.	Payees, transferees, or separate accounts.	AMOUNTS.	
		Money.	Securities.
Invest and accumulate in Consols Fund to be lodged, also £50 (*m*), part of money on deposit . . . . Interest on the said £50 .		£ *s.* *d.* 501 8 0	

1330. Summons by separate purchasers for leave to pay in their purchase-moneys under one order (*n*). [Dan. Pr. 1091.]

Formal parts : see Form 43 *or* 1077.

on the part of A. B., C. D., and E. F. : in the first column of the first schedule hereto respectively named ; and who by the Chief Clerk's certificate [*or*, by the order] dated the —— day of ——, 188—, have respectively been allowed the purchasers of the hereditaments comprised

(*j*) As to this schedule, see S. C. Funds Rules, 1884, rr. 5, 6, 8, 10, 22, 24, 25, 26.

(*jj*) Date of order under which the purchase-money is to be paid in.

(*k*) As in judgment or order for sale.

(*l*) If there is no money already in Court, the directions for investing the sum to be paid in under the order can be contained in the lodgment schedule ; but if money already in Court is to be dealt with, a payment schedule is required which will contain the directions for investment. Thus in the case in the text, if the purchase-money is all out of Court, a lodgment schedule only will be required ; but if the deposit has been paid into Court, and is to be dealt with by the order to be made on the present application, a payment schedule must be added.

(*m*) Amount of deposit on purchase-money paid by purchaser.

(*n*) For form of order, see 2 Seton, 1399, No. 3.

in the respective lots, the numbers of which are set opposite their respective names in the second column of the said schedule, being parts of the estates directed to be sold by the judgment [*or*, order] dated the —— day of ——, 188—: that the applicants, being respectively content with the title to their respective lots, may, on or before the —— day of ——, 188—, pay into Court, to the credit of (*&c.; as in the judgment or order for sale*) [*or*, as in the lodgment schedule mentioned], the several sums of money set opposite their respective names in the last column of the said schedule: such sums being the amounts of the balances of their respective purchase-moneys for the lots so purchased by them.

If so: after making the additions and deduction specified in the 4th, 5th, and 7th columns of the said schedule.

2. That upon such payments respectively being made, the applicants respectively may be let into possession of the premises comprised in the respective lots so purchased by them respectively, and into the receipt of the rents and profits thereof, as from the ——, 188—; and that all proper parties may be ordered to join in and execute proper conveyances and assurances of the said respective premises to the applicants respectively, or as they shall direct: such conveyances and assurances respectively to be settled by the Judge in case the parties differ.

3. That the funds in Court be dealt with as directed in the Lodgment and Payment schedule hereto (*o*).

4. That the said sums respectively may not be paid out (except for the purchase of annuities), and that such annuities may not be sold, transferred, or otherwise disposed of, without notice to the respective applicants.

The first Schedule.

Name of purchaser.	No. of Lot.	Purchase-money.	Deposit paid.	Valuation of timber.	Balance of purchase-money added to valuation of timber.	Interest thereon from —, 188—, to —, 188—, at £5 per cent. (deducting property tax).	Amount to be paid into Court.
		£	£	£	£	£	£
A. B., of, *&c.* (*oo*)	1	900	90	20	830	30	860
C. D., of, *&c.* .	2	750	75	18	693	25	718
E. F., of, *&c.* .	3	300	30	10	280	10	290

1331. Summons for leave to pay in purchase-money without prejudice (*p*). [Dan. Pr. 1092.]

Formal parts: see Form 43 *or* 1077.

on the part of A. B., of, *&c.*: the person (*Describe the purchaser: as in*

(*o*) As to this schedule, see Form 1329, and notes thereto; from which a form of schedule applicable can be readily framed.

(*oo*) The purchasers should be described, either here or in the introductory part of the summons, as in the certificate of result of sale, or order confirming the sale.

(*p*) In such case there will be a lodgment schedule to the order, as in Form 1329; but no payment schedule, unless the order should provide for investment of the purchase-money, and there are funds already in Court which are to be dealt with: see note (*a*) to Form 1334. As to the application for leave to pay in without prejudice, see Dan. Pr. 1091, notes (*e*) and (*f*); 2 Seton, 1405, and the cases there cited.

Form 1328) : that, without prejudice to any question as to the title to the said premises, the applicant may, on or before the ——, 188—, pay into Court (*Proceed as in* Form 1329, *to the end of clause* 1 ; *and add clauses* 3 *and* 4).

1332.

Further summons to be let into possession, in like case (*q*). [Dan. Pr. 1092.]

Formal parts : see Form 43 *or* 1077.

on the part of A. B. : the person (*Describe the purchaser : as in* Form 1328) : that the applicant, having paid into Court to the credit of, *&c.*, the sum of £—— for the purchase-money and interest for the said lot [*or*, estates], pursuant to the order dated the ——, 188—, and now being content with the title to the premises, may be let into the possession of the said premises, or into the receipt of the rents and profits thereof (*Continue as in clauses* 2, 3, *and* 4 *of* Form 1329, *to the end*).

1333.

Summons by purchaser for allowance of compensation out of his purchase-money, and to pay in the residue (*r*). [Dan. Pr. 1092.]

Formal parts : see Form 43 *or* 1077.

on the part of A. B., of, *&c.* : the person (*Describe the purchaser : as in* Form 1328) :

1. That out of his purchase-money for the said premises, the sum of £—— may be allowed to him as compensation (*State ground of application ; as thus :*

by reason of the said premises being described in the particulars of sale thereof as let on an agreement for —— years from the ——, 188—, at an annual rent of £50 ; whereas the rent reserved by the said agreement is only £45 per annum).

2. *If the purchaser is ready to pay in the balance, add :* That the applicant, being content with the title, may, on or before the ——, 188—, pay into Court to the credit of (*&c. ; as in the judgment or order for sale*) [*or*, as in the schedule mentioned (*s*)], the sum of ——, being the residue of the said purchase-money, after deducting the said £—— for such compensation [*If so :*] and after deducting £—— paid by him as a deposit (*Continue as in* Form 1329, *to the end*).

1334.

Summons by the vendor for payment of compensation by the purchaser (*r*). [Dan. Pr. 1092.]

Formal parts : see Form 43 *or* 1077.

on the part of the plaintiff [*or other person having the conduct of the sale*] : that A. B. : who by the Chief Clerk's certificate [*or*, by the order]

(*q*) There will be no lodgment schedule to the order to be made on this application : the payment schedule will provide for investment of the purchase-money previously paid in by the purchaser, and of the deposit (if any), in respect of the property purchased by him, unless provision for investment should have been made by the previous order. In such case no schedule at all will be required. The schedule, if required, can be readily framed from that given in Form 1329.

(*r*) As to compensation, see Sugd. V. & P. 323, *et seq.* ; Dart, V. & P. 134—142 ; 1 Davidson, 559—563 ; 2 Seton, 1408 ; and Form 1292 (9). For form of order for compensation to purchaser kept out of possession for more than a year, see 2 Seton, 1401, No. 7.

(*s*) For form of payment and lodgment schedule, see Form 1329, and notes thereto

dated the ——, 188—, has been allowed the purchaser of (lot —— of) the estates directed to be sold by the judgment [*or*, order] dated the ——, 188—: may be ordered, in addition to his purchase-money for the said premises, to pay, in such manner as the Judge shall direct, the sum of £——

Or, such amount as the Judge shall settle,

as compensation (*State ground of application; as thus:*

by reason of the said premises being described in the particulars of sale as containing by admeasurement 10a. 3r. 24p.: instead of 12a. 2r. 11p.).

1335. Summons to compel purchaser to leave draft conveyance (*t*). [Dan. Pr. 1095.]

Proceed as in Form 1334, *to* may be ordered; *and continue thus:*

on or before the ——, 188—, or within four days after service, to leave at my Chambers the draft of the conveyance to him of the said premises: to the intent that such draft may be settled by me pursuant to the order dated the ——, 188—.

1336. Summons by purchaser to compel return of draft or engrossment of conveyance (*u*). [Dan. Pr. 1096.]

Formal parts: see Form 43 *or* 1077.

on the part of A. B.: the person (*Describe the purchaser: as in* Form 1328): that the plaintiff [*or other party retaining the draft or engrossment*] may be ordered, on or before the ——, 188—, to leave in my Chambers the draft [*or*, engrossment] of the conveyance to the applicant directed to be settled and executed by the order dated the ——, 188—.

1337. Settlement of conveyance (*v*). [Dan. Pr. 1096.]

(*See* Forms 1202 *to* 1206.)

1338. Summons that a party to the purchaser's conveyance may be ordered to execute the same. [Dan. Pr. 1096.]

Formal parts: see Form 43 *or* 1077.

on the part of A. B.: (*Describe the purchaser: as in* Form 1328): that the plaintiff C. D. [*or as may be*] may be ordered, within four days after

(*t*) For form of order, see 2 Seton, 1401, No. 6.

(*u*) As to the preparation of the conveyance, see Sugd. V. & P. 557—565; 1 Dart, V. & P. 500—568; 1 Davidson Conv. 570, 571; 2 Seton, 1407, 1408; and as to covenants for title, see 44 & 45 Vict. c. 41, s. 7; Wolstenholme and Turner, 30—42; 1 Prideaux Conv. 195—203, 258. For precedents of conveyances of estates sold under order of the Court, see 2 Davidson, Pt. I., 270—285, 411—416; 1 Prideaux Conv. 370.

(*v*) See notes to Forms 1202—1206. The engrossment should be stamped before being left at Chambers. As to the stamp duties on conveyances, see 33 & 34 Vict. c. 97, Sched.; see also Sugd. V. & P. 566—572. As to searching for incumbrances, see 45 & 46 Vict. c. 39, s. 2; 1 Dart, V. & P. 449—499; 1 Prideaux, 146—172; Sugd. V. & P. 516—548; Wolstenholme and Turner, 131—136; and Forms 1207—1214, and notes thereto. As to succession duty, see 16 & 17 Vict. c. 51; 28 & 29 Vict. c. 104, ss. 53—64; Dart, V. & P. 275—278, 592—594; 1 Seton, 110—115; 2 *Ibid.*, 1406, 1407, 1648; 1 Prideaux Conv. 75, 102, 104, 145.

service, to join in and execute the indenture of conveyance in the Chief Clerk's certificate, dated the —— day of ——, 188—, mentioned: being a conveyance of the said premises to the applicant, which has been settled pursuant to the order dated the —— day of ——, 188—; and that the said C. D. may be ordered to pay the costs of and incident to this application.

1339.

Summons by purchaser for the appointment of a person to convey to him (*w*). [Dan. Pr. 1097, 1098.]

Formal parts: see Form 43 *or* 1077.

on the part of A. B.: the person (*Describe the purchaser: as in* Form 1328).

1. That C. D., of (*residence and addition*), may be appointed to convey the said premises to the applicant, or as he shall direct, for the estate of the infant defendant E. F. [*or as may be*] therein: the conveyance or assurance thereof to be settled by the Judge (*Add, when applicable*: in case the parties differ).

2. That the said C. D. may convey the said premises accordingly.

1340.

Summons by purchaser for a vesting order (*x*). [Dan. Pr. 1097, 1098.]

Formal parts: see Form 43 *or* 1077.

on the part of A. B.: the person (*Describe the purchaser: as in* Form 1328): that it may be declared that the (plaintiff) C. D. is to be deemed to be seised of [*or*, possessed of—*or*, entitled to a contingent right in] the said land, &c., of which the applicant has been allowed the purchaser, upon a trust, within the meaning of the Trustee Act, 1850, and the Trustee Extension Act, 1852, or one of them, and that the said lands, &c., may vest in the applicant, for the estate of the said C. D. [*or*, discharged from the contingent right of the said C. D.] therein.

1341.

Summons for delivery out of Court of documents to a purchaser (*y*). [Dan. Pr. 1098, 1099.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the deeds and writings

(*w*) See 13 & 14 Vict. c. 60, s. 20; 1 Seton, 521; Morgan, 71, 72. For forms of order, see 1 Seton, 507, No. 15, 534, No. 16. In case of a sale by the Court the application is by summons: see R. S. C. Ord. LV. 2 (8). An order will not in general be made until after the purchase-money has been paid into Court. Evidence must be produced to show that the estate is vested as alleged, and the Paymaster's certificate of payment in will be required.

(*x*) See R. S. C. Ord. LV. 2 (8); 13 & 14 Vict. c. 60, ss. 29, 30; 15 & 16 Vict. c. 55, s. 1; 1 Seton, 527—538; Morgan, 76—78, 90, 91. Upon the application the same evidence will be required as upon a summons to appoint a person to convey: see note (*w*), *supra*; for, notwithstanding *Irons* v. *Blyton*, M. R. at Chambers, 21 Nov. 1866: Reg. Lib. A. 2520: it seems that a vesting order will not be made until the purchase-money has been paid into Court. For forms of order, see 1 Seton, 534, No. 16. As to the stamp duty on a vesting order, see 15 & 16 Vict. c. 55, s. 13; 33 & 34 Vict. c. 97, ss. 70—78; Dan. Pr. 1098, note (*k*).

(*y*) For form of petition of course for the like purpose, see Dan. Forms, 3rd ed., Form 1159. For form of order, see 1 Seton, 168, No. 1. For forms of orders for delivery to purchasers of deeds not in Court, see 2 Seton, 1403, Nos. 10 and 11; and as to delivery of deeds generally, *Ibid.*, 1409. As to title deeds and attested

specified in the schedule hereto, being the [*or*, part of the] documents deposited with the Senior Master of the Supreme Court [*or*, with the Registrar of the District Registry at ——] by the defendant C. D. [*or as may be*], under an order dated the ——, 188—, may be delivered out to A. B., a purchaser under the judgment [*or*, order] dated the —— day of ——, 188—, of the [*or*, part of the] estates to which the said deeds and writings relate, or to whom he shall appoint.

Schedule.

(*Describe the documents, as in order or affidavit of deposit.*)

1342. Acknowledgment by purchaser of receipt of his conveyance, and consent to purchase-money being dealt with. [Dan. Pr. 1100.]

(*Short title and reference to the record.*)

I, A. B., the purchaser of the [*or*, of lot —— of the] estates directed to be sold by the judgment [*or*, order] in this action [*or*, matter] dated the —— day of ——, 188—, hereby admit that I have received the conveyance to me of the premises so purchased by me. And I consent to the distribution or application of my purchase-money for the said premises, in any manner the High Court of Justice may direct. And I authorise Mr. C. B., the solicitor of the plaintiff [*or other party having the conduct of the cause*], to appear in person or by counsel, and consent on my behalf to such distribution or application being made: on condition that I am not made responsible to any person for the costs of such appearance and consent. Dated this —— day of ——, 188—.

A. B.

Witness to the signature of the said A. B. }
C. A., of (*residence and addition.*)

1343. Notice to purchaser of intention to deal with his purchase-money (*z*). [Dan. Pr. 1100.]

Formal parts: see Form 37.

Take notice that (*State the proceeding about to be taken; as thus:*

this action, the further consideration whereof was adjourned by the order therein dated the ——, 188—, was on the ——, 188—, set down for further consideration before his lordship Mr. Justice ——, for the —— day of ——, 188—);

and that, on the said hearing on further consideration [*or as may be*], your purchase-money for the premises purchased by you under the judgment [*or*, order] in this action dated the ——, 188—, and which has been paid into Court to the credit of this action [*or as may be*], will be dealt with in such manner as the Court may direct.

If the purchaser has had his conveyance, add: And further take notice that should you appear on the said hearing on further consideration [*or as may be*] objection will be taken to your costs being allowed.

copies, see 37 & 38 Vict. c. 78, s. 2 (3), (4), and (5); 44 & 45 Vict. c. 41, s. 3 (3), and (6); Wolstenholme and Turner, 12, 13, 20, 22; 1 Prideaux Conv. 207—212; Sugd. V. & P. 97, 433—453, 837; Dart, V. & P. 142—145, 312, 322, 407, 1222; 1 Davidson Conv. 579—593.

(*z*) This notice need not be given if the purchaser has signed a consent to his purchase-money being dealt with: see Form 1342.

1344.

Affidavit of service thereof, and that the purchaser has had his conveyance (*a*). [Dan. Pr. 1100.]

Formal parts: see Form 6.

1. (*Prove service of the notice: see* Form 31.)

2. The conveyance to the said A. B., of the hereditaments purchased by him as aforesaid, has, pursuant to the order of the —— day of ——, 188—, been executed and delivered to him: as I know from (*State means of knowledge*).

1345.

Summons for the discharge of purchaser's restraint on fund (*b*). [Dan. Pr. 1100.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that so much of the order dated the —— day of ——, 188—, as directs that the sum of £—— therein mentioned is not to be paid out except for the purchase of annuities, and that such annuities are not to be sold, transferred, or otherwise disposed of, without notice to A. B., the purchaser therein named,

If so: and the entry of such order in the books of the Pay Office,

may be discharged.

1346.

Affidavit in support of summons to discharge purchaser's restraint on fund. [Dan. Pr. 1100.]

Formal parts: see Form 6.

1. (*Prove that the purchaser has had his conveyance: see* Form 1344.)

2. (*Prove service of the summons: see* Form 31.)

1347.

Summons by purchaser for leave to pay off incumbrance out of his purchase-money (*c*). [Dan. Pr. 1101.]

Formal parts: see Form 43 *or* 1077.

on the part of A. B.: the person (*Describe the purchaser: as in* Form 1328).

1. That upon L. M., of (*residence and addition*), the mortgagee of the said premises, under and by virtue of an indenture of mortgage dated the —— day of ——, 188—, made between the testator C. D. of the one part, and the said L. M. of the other part, duly executing the conveyance of the said premises to the applicant, or as he may direct, the applicant may be at liberty, out of his purchase-money for the said premises, to pay to the said L. M. the principal sum of £——, due to him on his said mortgage security, together with interest thereon at £—— per cent. per annum from the ——, 188—, until payment; and

(*a*) See 1 Seton, 42; 2 *Ibid.*, 1406.

(*b*) For form of order, see 1 Seton, 303.

(*c*) The directions to be acted on in the Pay Office will be contained in a lodgment schedule to the order; and, if it is desired to issue the summons with a schedule, one can be readily framed from that given in Form 1329. If the deposit is in Court, and it is desired to invest it, a payment schedule will also be required: see Form 1329; and note (*l*) thereto; and see 2 Seton, 1402, No. 8; and *Ibid.*, 1407.

also the costs of the said L. M. as mortgagee: such costs to be taxed by the Taxing Master.

2. That the applicant may, within seven days after the date of the Taxing Master's certificate, pay into Court (to the credit of, *&c.; as in the judgment or order directing the sale*), [*or, if the summons is framed with a Pay Office Schedule*, as mentioned in the schedule hereto] the residue of his purchase-money after deducting the amount paid to the said L. M.

If so: and after deducting £—— paid by the applicant as a deposit (*Continue as in* Form 1329, *to the end*).

1348.

Summons by purchaser for leave to keep incumbrance on foot and pay in residue of purchase-money (*d*). [Dan. Pr. 1101.]

Proceed as in Form 1347, *to* other part; *and continue thus:* waiving all claims and demands against the estate of the said testator, and his real and personal representatives, under or in consequence of the said indenture, in respect of the principal sum of £—— now due to him on the security thereof, and of all interest or other moneys due, or to become due, in respect thereof, and agreeing that, as between the said L. M. on the one hand, and the real and personal representatives of the said testator on the other hand, the premises comprised in the said indenture shall be deemed to be the only security for the repayment of the said principal, interest, and other moneys, the applicant may, on or before the ——, 188—, pay into Court (to the credit of, *&c.; as in the judgment or order directing the sale*), [*or, if the summons is framed with a Pay Office Schedule*, as mentioned in the schedule hereto], the sum of £——, being the residue of £——, his purchase-money for the said premises, after deducting the said principal sum of £——, and £——, the proportion of the accruing interest thereon, and £——, the proportion to be borne by the testator's estate of the costs of the said L. M., in respect of the said security, and after deducting £—— paid by the applicant as a deposit (*Continue as in* Form 1329 *to the end; but add, after the direction to convey:* subject nevertheless to the said indenture of mortgage, and the moneys thereby secured) (*e*).

1349.

Summons to pay off incumbrance out of purchase-money in Court (*f*). [Dan. Pr. 1101.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*]:

1. That the costs of L. M., as mortgagee, may be taxed.

2. That upon production of an affidavit that the said L. M. has executed and delivered to A. B., the person (*Describe the purchaser as in* Form 1328), a conveyance of the said premises, free from the mortgage thereon of the said L. M. for £—— and interest created by indenture dated the ——, 188—, in the Chief Clerk's certificate dated the ——,

(*d*) For form of order, see 2 Seton, 1402, No. 9.

(*e*) As to lodgment and payment schedules, see note (*c*), *supra*.

(*f*) For form of petition for like purpose, see Dan. Forms, 3rd ed., No. 1167. For form of order, see 2 Seton, 1402, No. 8.

188—, mentioned [*or as may be*], the sum of £——, being the principal money due to the said L. M. on his said incumbrance, and also interest thereon at the rate of £— per cent. per annum, from the ——, 188—, to the fourth day after bespeaking the sale, and also the taxed costs of the said L. M., may be raised by a sale of a sufficient part of the £——, consolidated £3 per cent. annuities in Court to the credit of (*Describe the fund and credit, as in Paymaster's certificate*), and representing the purchase-money of the said A. B. for the said premises [*or as may be*].

3. That out of the money so raised the amount of the said principal money, interest, and costs may be paid to the said L. M. (*g*).

1350.

Summons for payment into Court of amount required to discharge an incumbrance on the property sold (*h*). [Dan. Pr. 1101, 1102.]

Formal parts: see Form 43 *or* 1077.

on the part of A. B.: who (*Describe the purchaser, as in* Form 1328—*or as may be* (*i*)), that he may be at liberty [*or*, that A. B. may be ordered] to pay into Court to the credit of this action to an account entitled (*State what*), the sum of £A., and also the additional sum of £B., or such other sum as the Court shall direct: the said sum of £A. being, when invested in 3 per cent. consolidated annuities [*or as may be*], an amount sufficient, by means of the dividends thereof, to keep down the annuity of £— per annum charged upon the real estate directed to be sold by the judgment [*or*, order] dated ——, 188—, in favour of G. H., of (*residence and addition*); and the said sum of £B. (*j*), being for the purpose of meeting the contingency of further costs and expenses, and interest, and any other contingency, except depreciation of investment, in respect of the said annuity. And that upon such respective payments being made, the applicant may be at liberty to apply for an order declaring the said real estate to be freed from the said annuity (*where necessary add:*) and for conveyance or vesting of the same real estate to or in the applicant [*or as may be*], or as he shall direct (*k*).

(*g*) If it is desired, the directions for payment of the mortgage-money and of the taxed costs can be inserted in a payment schedule to the summons: as will be the case in the order to be made on the summons. In such case, care must be taken that the conveyance, upon the execution of which the fund is to be paid to the mortgagee, is described, and the parties by whom it is to be executed named, in the Payment Schedule: see S. C. Funds Rules, 1884, r. 18.

(*h*) See 44 & 45 Vict. c. 41, s. 5 (1); Wolstenholme and Turner, 25—28. The application must be made by summons: 44 & 45 Vict. c. 41, s. 69 (3). The form in the text applies to the case where the sale has taken place in a pending action or matter. If it has been made out of Court, the application (which will be by originating summons) must be entitled in the matter of the contract of sale between the parties, and of the Conveyancing Act, 1881.

(*i*) The application may be made by any party to the sale: 44 & 45 Vict. c. 41, s. 5 (1). As to the parties to be served, see *Ibid.*, s. 69 (4), (5), (6).

(*j*) The amount to be paid to meet the contingency of future costs, &c., will not in general exceed one-tenth part of the original amount to be paid in: *Ibid.*, s. 5 (1).

(*k*) *Ibid.*, s. 5 (2); *Dickin* v. *Dickin*, W. N. (1882), 113.

1351.
Summons for declaration that land is freed from the incumbrance (*l*).
[Dan. Pr. 1102.]

Formal parts: see Form 43 *or* 1077.
on the part of A. B.: who (*Describe the purchaser: as in* Form 1328—*or as may be*):

1. That the sum of £A., part of the £C. in Court to the credit of this action to an account (*State what*), may be invested in 3 per cent. consolidated annuities [*or as may be*]; and that the dividends as they accrue thereon may be paid to G. H. during his life, or until further order.

2. That the sum of £B., residue of the said £C., may be carried over to the credit of an account to be entitled "Fund to meet contingency in respect of Annuity to G. H., charged on testator's real estate" [*or as may be*], and invested in like annuities. And that the dividends as they accrue from time to time on such annuities may be invested in like annuities and accumulated (*ll*).

3. That the real estate by the judgment [*or*, order], dated the ——, 188—, directed to be sold, may be declared free from the annuity charged thereon in favour of the said G. H.

4. *If so:* That an order may be made vesting the said real estate, so freed as aforesaid, in the applicant [*or, if the application is not made by the purchaser*, in A. B.: who (*Describe the purchaser: as in* Form 1328)].

1352.
Summons to compel payment in of the purchase-money, and for a re-sale on default (*m*).
[Dan. Pr. 1103.]

Proceed as in Form 1334, *to* may be ordered; *and continue thus:*
on or before the ——, 188—, or subsequently within seven days after service, to pay into Court (to the credit of: *State what, as in the judgment or order for sale*), [*or, if the summons is framed with a Pay Office Schedule*, as mentioned in the Schedule hereto (*mm*)], the sum of £——: being the purchase-money for the said premises:

Or, being the balance of the purchase-money for the said premises, after deducting £——, paid by him as a deposit:

If so: and the further sum of £——: being the amount of the valuation of the timber on the said premises; making together the sum of ——:

If so: together with interest thereon at £— per cent. per annum from the ——, 188— (*as in the conditions or contract of sale*), until payment (the amount of such interest to be verified by affidavit).

2. That upon such payment being made, the said A. B. may be let into possession of the said premises, and into the receipt of the rents and profits thereof, from the ——, 188—; and that all proper directions for the conveyance or assurance of the said premises to him may be given.

3. That the said £—— may not be paid out without notice to the said A. B.

4. That the said A. B. may be ordered to pay to the applicant his costs of this application.

(*l*) See 44 & 45 Vict. c. 41, s. 5 (2); *Dickin* v. *Dickin*, W. N. (1882), 113: 30 W. R. 887.

(*ll*) It may be open to question whether these dividends should be accumulated, or should be paid to the persons entitled to the purchase-money of the land sold.

(*m*) For forms of order, see 2 Seton, 1401, No. 5, 1410, No. 2; and see *Ibid.*, 1412.

(*mm*) See note (*o*) to Form 1353.

Add, if desired: 5. That in default of such payment being made by the said A. B. within the time aforesaid, the premises whereof he has been allowed the purchaser, as aforesaid, may be resold pursuant to the conditions of sale under which he purchased the same; without prejudice to his liability to make good any deficiency in the price which may be obtained upon such re-sale, and all costs and expenses occasioned by his default (*n*).

1353.

Summons to compel payment by former purchaser of deficiency on a resale, after his default. [Dan. Pr. 1105, note (*u*).]

Proceed as in Form 1334, *to* may be ordered; *and continue thus:* on or before the ——, 188—, or subsequently within seven days after service, to pay into Court (to the credit of, *&c.; as in the judgment or order for sale*) [*or, if the summons is framed with a Pay Office Schedule,* as mentioned in the schedule hereto] (*o*), the sum of £——, being the difference between the sum of £——, the price at which the said A. B. was allowed the purchaser as aforesaid, and the sum of £—— for which the said premises have been resold in pursuance of the order dated the ——, 188—, on his default; and that the said A. B. may be ordered to pay to the applicant and the defendant [*or as may be*] all costs and expenses of and occasioned by such default, and of this application: to be taxed by the Taxing Master.

1354.

Summons by purchaser for an inquiry as to the title (*p*). [Dan. Pr. 1087, 1104.]

Formal parts: see Form 43 *or* 1077.
on the part of A. B.: who (*Describe the purchaser, as in* Form 1328): that, the applicant objecting to the title to the said premises, an inquiry may be made whether a good title can be made thereto.

1355.

Summons by purchaser to be discharged from his purchase (*q*). [Dan. Pr. 1088—1090, 1104, 1105.]

Formal parts: see Form 43 *or* 1077.
on the part of A. B.: who (*Describe the purchaser, as in* Form 1328):

1. That the applicant may be discharged from being such purchaser.
2. That his costs, charges, and expenses occasioned by his bidding for, *Or*, by his entering into the conditional contract dated the —— day of ——, 188—, in the said order of the —— day of —— 188—, mentioned,

and being allowed the purchaser of the said premises, and of and incident to this application, may be taxed.

(*n*) See Form 1292 (10).

(*o*) The directions for payment into Court will be contained in a lodgment schedule to the order: if the summons is framed with a schedule, that given in Form 1329 may readily be adapted.

(*p*) For form of order, see 2 Seton, 1398, No. 1.

(*q*) For form of order, see 2 Seton, 1410, No. 1; and see as to discharge of a purchaser, *Ibid.*, 1411—1413. As to the grounds for rescinding a contract, see Sugd. V. & P. 39, 66, 242—256, 871; Dart, V. & P. 421—424, 438—441, 949, *et seq.*; 1 Davidson Conv. 564—567, 604; 1 Prideaux, 13—16.

3. That his said costs, charges, and expenses,

If so: and also the sum of £——, paid by him as a deposit on his purchase-money,

may be paid to him out of the £—— cash in Court to the credit of (*&c.; as in Paymaster's certificate*):

Or, may be raised by a sale of the £—— consolidated £3 per cent. annuities in Court to the credit of (*&c.; as in Paymaster's certificate*), and paid to the applicant:

Or, may be paid to him by the plaintiff C. D.,

without prejudice to the question by whom, or out of what fund, the same should be ultimately borne.

1356.

Summons by vendor to discharge purchaser (*r*). [Dan. Pr. 1105.]

Proceed as in Form 1334, *to end of description of the purchaser; and continue thus:* may be discharged from being such purchaser, on the terms following: (*State them*).

1357.

Summons to substitute a purchaser (*s*). [Dan. Pr. 1106.]

Formal parts: see Form 43 *or* 1077.

on the part of A. B.: who (*Describe the original purchaser, as in* Form 1328, *and continue thus:*) and of C. D., of (*residence and addition*), that the said C. D. may, on or before the ——, 188— (*Add particulars of purchase-money, valuation of timber, and interest, to be paid into Court, as in* Form 1329), and that thereupon the said C. D. may be substituted for the said A. B. as the purchaser of the said premises; and be let into possession (*Continue as in* Form 1329, *to the end*).

1358.

Notice of motion or summons to open biddings, or for a resale (*t*). [Dan. Pr. 1106—1108.]

Formal parts: see Form 38, *or* 43, *or* 1077.

on the part of the plaintiff [*or as may be*], that the biddings at the sale, on the —— day of ——, 188—, of the estate directed to be sold by the judgment [*or,* order] dated the —— day of ——, 188—, may be opened, and that A. B., the highest bidder at the said sale, may be bound by his highest bidding thereat: which amounted to the sum of £——. Or that the said A. B. may be discharged from being the purchaser of the said estate, and the said estate be directed to be resold; upon such terms as to costs or otherwise as the Judge shall think fit.

(*r*) For form of order, see 2 Seton, 1411, No. 3.

(*s*) For form of order, see 2 Seton, 1403, No. 12; and as to substituting a purchaser, *Ibid.*, 1409, 1410.

(*t*) See the Sale of Land by Auction Act, 1867 (30 & 31 Vict. c. 48), s. 7. For the former practice as to opening the biddings after a sale, see Dan. Pr. 1196—1202, 4th ed.; 2 Seton, 1202—1207, 3rd ed.

1359.

Affidavit in support of motion or summons. [Dan. Pr. 1107.]

Formal parts: see Form 6.

1. (*Show that the property in question was put up for sale by public auction, with the approbation of the Judge, pursuant to particulars and conditions of sale settled by him; or as may be; and the result of such sale.*)

2. (*Show the ground of fraud or improper conduct in the management of the sale, leading up to the application to open the biddings, or for a resale.*)

3. (*Show means of knowledge.*)

1360.

Conditional contract of sale (*u*). [Dan. Pr. 1108.]

Memorandum of agreement made the —— day of ——, 188—, between A. B., of (*residence and addition*), as the agent for and on behalf of the parties interested under the will of E. F., late of, *&c.*, deceased, in the hereditaments and premises hereinafter mentioned [*or as may be*], of the one part, and C. D., of (*residence and addition*), of the other part, as follows:—

1. The said A. B. agrees to sell, and by all necessary parties to convey or assure, to the said C. D., his heirs and assigns, or as he or they shall direct, and the said C. D. agrees to purchase, the hereditaments and premises comprised in (lot —— of) the within particulars, at the price or sum of £——: of which sum the said C. D. has this day paid to the said A. B. the sum of £——, as a deposit, and in part payment thereof.

2. The sale and purchase aforesaid are to be subject to the within particulars and conditions of sale (*v*), in all respects save the following, namely: (*State what, as thus:*

The conditions numbered 1, 2, *&c.*, are not to apply. The abstract of title under the condition numbered 6, is to be delivered on or before the ——, 188—; the balance of the purchase-money is to be paid into Court on or before the ——, 188—; and the purchaser is to be entitled to possession, or to the rents and profits, from the ——, 188—).

3. This agreement is conditional on the same being approved by his lordship, Mr. Justice ——, in the action of G. *v.* H., now assigned to the said Judge.

4. The said A. B., or other proper party, is forthwith to take all necessary steps to obtain, at the expense of the vendor, the approval of the said Judge to this agreement.

(*u*) As to contracts by agents, see Sugd. V. & P. 820; and for the sale of land: 37 & 38 Vict. c. 78, ss. 1—3; 44 & 45 Vict. c. 41, s. 3; Wolstenholme and Turner, 19—23; 1 Prideaux Conv. 77—90; Sugd. V. & P. 121—200; Dart, V. & P. 232—45; and for forms of contracts for sale, see Wolstenholme and Turner, 179—185; 1 Prideaux, 90—116; 2 Davidson Conv. 13, *et seq.*

(*v*) See Dan. Pr. 1108. The form assumes that the agreement will be indorsed on a print of the particulars and conditions of sale. Where that is not to be the case, the property must of course be described, and the agreed conditions of sale set out, either in the agreement, or in a schedule or exhibit thereto.

5. This agreement is to be void, unless the approval of the said Judge be, within —— weeks from the date hereof, obtained thereto, either in its present terms, or with such variation therein as shall be approved by the said C. D. within the like time.

As witness our hands.

A. B.
C. D.

Signed by the said A. B. and C. D., in the presence of L. M., of (*residence and addition*).

1361.

Summons to carry conditional contract into effect (*w*). [Dan. Pr. 1108.]

Formal parts : see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the conditional contract, dated the —— day of ——, 188—, made between the applicant [*or as may be*] of the one part, and C. D., of (*residence and addition*), of the other part, for the sale to the said C. D., at the sum of £——, of the hereditaments and premises therein described or referred to, part of the estates directed to be sold by the judgment [*or*, order], dated the —— day of ——, 188—, may be carried into effect.

1362.

The like, subject to a variation (*x*). [Dan. Pr. 1109.]

The same as Form 1361 ; *but conclude thus :*

may, by consent of the said C. D., be varied by (*Describe the proposed variation ; as thus :*

substituting £8,000, for £7,600, as the purchase-money for the said premises),

and, as so varied, may be carried into effect.

1363.

Affidavit in support (*y*). [Dan. Pr. 1108.]

Proceed as in Form 1199, *to the end of paragraph* 1.

2. I have examined and surveyed the hereditaments and premises

(*w*) For form of order, see 2 Seton, 1393, No. 7. For form of petition, see Dan. Forms, 3rd ed., Form 1179. It has not been thought necessary to include that form in the present edition : for it seems that the application must now be made by summons : see R. S. C. Ord. LV. 2 (14). If the property, which is the subject of the contract, has not been previously offered for sale by auction under conditions settled by the Court, the order confirming the contract will not in general be made until the Conveyancing Counsel has advised on the title, or it has been accepted by the purchaser.

(*x*) For form of order, see 2 Seton, 1393, No. 8.

(*y*) In addition to the evidence of value, an affidavit verifying the purchaser's signature to the contract is very frequently tendered. This, however, is wholly unnecessary, and will be rejected by the Chief Clerk. If the property has been already offered for sale by auction, and the amount of purchase-money is less than the reserve fixed at the sale, evidence should be adduced showing the grounds for selling at the lesser sum, and the reasons, if any, for believing that the reserve was fixed too high.

described or referred to in the conditional contract for the sale thereof dated the —— day of ——, 188—, made between A. B. of the one part, and C. D. of the other part, now produced and shown to me, and marked A. (*z*) ; and which said sale was negotiated by me on behalf of the said A. B. [*or as may be*].

3. The sum of £—— in the said contract mentioned is, in my judgment and opinion, the full and fair value of the said hereditaments and premises, and fully as much as would probably be obtained for the same at a sale thereof by public auction.

4. It will be advantageous to all parties interested in the said premises that the said contract should be confirmed and carried into effect.

—— —— Sworn (*&c. : see* Form 9).

1364. Summons to confirm conditional contract, and to pay in purchase-money. [Dan. Pr. 1109.]

Proceed as in Form 1361 *or* 1362, *to the end ; and continue thus :* and that the said C. D., he being content with the title to the said premises, may, on or before (*Continue as in* Form 1329, *to the end*).

(18.) *Settlement of Bills for Acts of Parliament* (*a*).

(*Dan. Pr.*, pp. 1111, cccxciii.)

1365. Chief Clerk's certificate of approval of draft bill (*b*). [Dan. Pr. 1111.]

Formal parts : see Form 1410.

The draft of a bill to be submitted to Parliament for an Act to (*set out the title, as in the bill*), has been settled and approved by the Judge ; and is identified by my signature at the foot [*or*, in the margin of the first page] thereof.

If the recitals in the bill have been proved, add : The several instruments, facts, and events recited in the preamble of the said draft bill immediately before the recital therein of this certificate, have been proved in this action (*or as may be ; or if some have not been proved, specify them*).

The evidence produced, *&c.*

1366. Memorandum of identity of the draft bill. [Dan. Pr. 1111.]

(*Short title.*)

This is the draft of the bill to Parliament referred to in my certificate in this action [*or*, matter], dated the —— day of ——, 188—.

R. M., Chief Clerk.

1367. Recital of the Chief Clerk's certificate in the preamble of the bill. [Dan. Pr. 1111.]

And whereas in pursuance of the said recited order of the High Court of Justice, dated the —— day of ——, 188—, the Chief Clerk of the said Mr. Justice ——, made his certificate, dated the —— day of ——,

(*z*) Exhibit it. For form of memorandum of exhibit, see Form 28.

(*a*) For forms of orders, see 2 Seton, 737, Nos. 12, 13. As to the costs of an application for an Act of Parliament, see *Stanford* v. *Roberts*, W. N. (1882), 146.

(*b*) The certificate is written either in the margin or at the foot of the draft bill.

188—, in the said action [*or*, matter], and thereby certified as follows :— In pursuance of the directions given to me by (*Recite the certificate : omitting the statement of the evidence*) : And whereas the said Chief Clerk's certificate was on the —— day of ——, 188—, duly filed in the Central Office of the Supreme Court of Judicature.

1368.

Affidavit verifying a print of the draft bill. [Dan. Pr. 1111.]

Formal parts : see Form 6.

1. I have carefully examined and compared the printed bill now produced and shown to me, and marked A. (*c*), with the draft of a bill also now produced and shown to me, and marked B. (*c*) : being the draft of the bill to Parliament which has been settled at the Chambers of Mr. Justice ——, in pursuance of the order in this action [*or*, matter], dated the —— day of ——, 188—.

The said printed bill, marked A., is a true and correct copy in print of the said draft bill, marked B.

1369.

Memorandum of approval of draft bill by the Judge (*d*). [Dan. Pr. 1111.]

I have settled and do approve of this bill : which is a printed copy of the draft bill referred to in my Chief Clerk's certificate, dated the —— day of ——, 188—, in this action [*or*, matter].

Dated this —— day of ——, 188—.

(*Judge's signature.*)

Section IV.—Proceedings on Adjournments to Chambers (*e*).

(*Dan. Pr.*, pp. 1111, 1112.)

1370.

Summons to proceed on matter adjourned to Chambers (*f*). [Dan. Pr. 1112.]

Formal parts : see Form 43 or 1077.

on the part of the petitioner A. B., to proceed on the petition preferred by him on the —— day of ——, 188—, in this action [*or*, matter] : and which, on the —— day of ——, 188—, was adjourned for consideration in Chambers [*or as may be*].

(*c*) Exhibit it. For form of memorandum of exhibit, see Form 28.

(*d*) The signature of the Judge must be proved in Parliament.

(*e*) As to the power of the Court or Judge to adjourn a matter from or to Chambers, see 1 Seton, 62, 63 ; *In re Coore*, W. N. (1883), 169 ; *In re Moate's Trusts*, 22 Ch. D. 635 : 31 W. R. 497. A note signed by the Registrar must be left in Chambers, unless an order is drawn up : see R. S. C. Ord. LV. 29 ; 1 Seton, 54. The note should be written on a separate sheet or half-sheet of foolscap paper : Dan. Pr. 1111, note (*x*). For form of order, where one is drawn up, see 1 Seton, 60, No. 1,

(*f*) A summons is sometimes dispensed with : Dan. Pr. 1112, note (*z*).

Section V.—Infants (*a*).

(*Dan. Pr.*, pp. 1113—1139, cccxciii.)

(*a*) *Infants.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Applications to be made in Chambers :—	
(1.) Under 1 Will. IV. c. 65, ss. 12, 16, 17, where the infant is a ward of Court, or the administration of his estate, or his maintenance is under the direction of the Court	LV. 2 (9).
(2.) Under 18 & 19 Vict. c. 43, for the settlement of any property of any infant on marriage	,, ,, (10).
(3.) As to guardianship, maintenance, or advancement .	,, ,, (12).
Evidence upon application to appoint guardians, &c.—The following facts must be proved, viz. : (*a*) the ages of the infants; (*b*) the nature and amount of their fortunes and incomes; (*c*) what relations they have	,, 25.
Evidence upon applications under 18 *&* 19 *Vict. c.* 43.—The following facts must be proved, viz. : (*a*) the age of the infant; (*b*) whether he or she has any parents or guardians; (*c*) with whom or under whose care he or she is living, and, if there are no parents or guardians, what near relations he or she has; (*d*) the rank and position in life of the infant and parents; (*e*) what the infant's property and fortune consist of; (*f*) the age, rank, and position in life of the person to whom the infant is about to be married; (*g*) what property, fortune, and income, such person has; (*h*) the fitness of the proposed trustees, and their consent to act. The proposals for settlement must be submitted to the Judge	,, 26.
Appointment of guardian ad litem.—The Judge may at any time require a guardian *ad litem* to be appointed for any infant served with notice of any judgment or order	,, 27.

(1.) *Appointment and Removal of Guardians* (*b*).

(*Dan. Pr.*, pp. 1113—1122.)

1371. Summons for the appointment of a guardian of the person, where an action is pending. [Dan. Pr. 1115.]

(*Title* (*c*) *and reference to the record.*)

Let (*&c. : Proceed as in* Form 43, *or* 1077, *or* 1078, *to* application ; *and continue thus :*) on the part of the plaintiff [*or*, defendant—*or*, above-named] A. B., an infant, by C. D., of (*residence and addition*), his next friend (*d*), that the said C. D. (*State degree of relationship, if any, to*

(*b*) As to the various kinds of guardianship of infants, see Macpherson on Infants, 2—114, liii.—lxii. ; Chambers on Infants, 54—80, 861 ; Simpson on Infants, 191—234 ; 2 L. C. Eq. 659—72. As to the appointment of guardians by the Court of Chancery, and its control over guardians, see Macpherson, 95—151, lx.—lxii. ; Chambers, 81—105, 158—200, 862—4 ; Simpson, 222—30, 423—7 ; 2 L. C. Eq. 672—88 ; 2 Seton, 722—5 ; *Re Lyons*, 18 W. R. 238. As to the custody of infants under 36 & 37 Vict. c. 12, and guardianship of infant felons, under 3 & 4 Vict. c. 90, see Dan. Pr. 2269—71. As to what constitutes a ward of Court, see Dan. Pr. 1113, 1114.

(*c*) Where the infant is not a party to the action, the application should be intituled in the matter of the infant, and in the action, and be made by an originating summons. Where the infant is a party, an ordinary summons will suffice.

(*d*) For form of authority by the next friend to use his name, see Form 68.

the infant; as thus: the maternal uncle of the said infant), or some other proper person, may be appointed the guardian of the person of the said A. B. during his minority, or until further order (*Add, if desired, a direction for payment of the costs of the application: see paragraph* 3 *of* Form 1374).

1372.
The like, where no action is pending (*e*). [Dan. Pr. 1116.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
In the matter of A. B., an infant, by C. D., his next friend.

Let (*&c.: Proceed as in* Form 1078, *to* application; *and continue thus:*) on the part of the above-named infant A. B., by the above-named C. D., of (*Continue as in* Form 1371, *to the end*).

Dated (*&c.: Conclude as in* Form 1078.)

1373.
Summons for the appointment of *quasi* guardian of the person, where the father is alive (*f*). [Dan. Pr. 1116.]

Title and other formal parts: as in Forms 1371 *or* 1372.

on the part of the above-named infant A. B., by the above-named C. D., of, *&c.*, his next friend, that the said C. D. (*State degree of relationship, if any, to the infant*), or some other proper person, may be appointed in the nature of a guardian [*or*, to act as the guardian] of the person of the said A. B., and to have the care of his maintenance and education, during his minority, or until further order.

1374.
Summons for the appointment of a guardian of the person and estate—or estate only—where no action is pending (*g*). [Dan. Pr. 1120.]

(*Title: as in* Form 1372.)

Let (*&c.: Proceed as in* Form 1078, *to* application; *and continue thus:*) on the part of the above-named infant A. B., by the above-named C. D., of (*residence and addition*), his next friend:

1. That the said C. D. (*State degree of relationship, if any, to the infant; as thus:* the brother of the said infant (*h*)), or some other proper

Where the infant is a party to the action, and the application is made by him by his next friend, or guardian *ad litem*, therein, the residence of such next friend, &c., need not be stated, and no written authority by him need be filed.

(*e*) This application is made by originating summons.

(*f*) As to appointment of a person to act as guardian, see Simpson, 147. For form of order, see 2 Seton, 719, No. 2. The summons must be served on the father, where practicable, and strong evidence produced to show the grounds for depriving him of his natural right as guardian of his children. As to interference with the common law rights of a father, see Simpson, 136—155.

(*g*) As to the evidence to be produced upon an application for the appointment of a guardian, see R. S. C. Ord. LV. 25; and note (*a*), *supra;* 2 Seton, 723. The fitness of the proposed guardian must also be proved by affidavit; and his written consent to act produced. The nature of the other evidence to be adduced will depend upon the circumstances of the particular case. Thus, it may be necessary to show the marriage of the infant's parents; or the happening of events which have led to the infant becoming entitled to the property sought to be affected by the order, or to the interposition of the Court being required. For forms of order, see 2 Seton, 719, Nos. 4, 5.

(*h*) As to who will be appointed guardian, and what relations are preferred in the selection, see Macpherson, 12; Simpson, 225—228; 2 Seton, 723, 724.

person, may—*If so:* upon giving security (*i*)—be appointed the guardian of the person and estate

Or, the guardian of the estate

of the said A. B., during his minority, or until further order.

If the guardian has to pass accounts, add: 2. And that the said C. D. or other such guardian, may from time to time pass his accounts, and pay the balances which shall be certified to be due from him into Court, to the credit of "In the matter of A. B. an infant;" and that such balances may be invested in consolidated £3 per cent. annuities, and that the dividends to accrue on such annuities may be from time to time invested in like annuities (*j*).

If any provision as to costs is necessary, add: 3. And that the costs of this application may be taxed as between solicitor and client; and that the said C. D., or other such guardian, may retain and pay the same out of any moneys of the said infant which may come to his hands, and be allowed the same on passing his said accounts [*or as may be*] (*k*).

1375. Affidavit in support of application to appoint a guardian (*l*). [Dan. Pr. 1119.]

(*Title and reference to the record.*)

We, C. D., of (*residence and addition*), and W. R., of, *&c.*, severally make oath and say, as follows:

And first I, the said C. D., for myself say, as follows:

1. I am the person proposed to be appointed the guardian of the above-named infant A. B.

Or, A. B., the infant named in the summons issued from the Chambers of Mr. Justice ——, in this matter on the —— day of ——, 188— [*or as may be*].

2. *Show infant's age; as thus:* The said A. B. is now of the age of —— years and upwards, having been born on or about the —— day of ——, 188— (*m*).

3. *Show nature and amount of infant's fortune; as thus:* The said A. B. is absolutely entitled, under the will of his maternal uncle E. F., late of (*residence and addition*), deceased, to the following properties; namely:—

(1) A freehold estate situated at G., in the county of H., containing about 80 acres, and held by L. M. on lease at £120 a year.

(2) A copyhold house at G., aforesaid, let to N. O. as yearly tenant, at £50 a year.

(3) £2,000 consolidated £3 per cent. annuities, standing in the names of R. S. and T. W., the trustees of the will of the said E. F.

(*i*) As to when security will be dispensed with, see Dan. Pr. 1120; Simpson, 230. For form of order appointing a guardian without security, see 2 Seton, 720, No. 6.

(*j*) The directions for payment into Court will be contained in a lodgment schedule to the order.

(*k*) The costs of appointment of guardians of infants are, as a rule, payable out of income.

(*l*) See R. S. C. Ord. LV. 25; and notes (*a*) and (*g*), *supra.*

(*m*) Strict evidence of the age of the infant by production of a certificate of birth or baptism is not as a rule required on applications for maintenance.

(4) £60 cash in the hands of the said R. S. and T. W., arisen from dividends on the said bank annuities.

The said A. B. is also entitled, under the said will, in remainder expectant on the death of N. F., the widow of the said E. F., to a life interest in £7,000 New £3 per cent. annuities, also standing in the names of the said R. S. and T. W., the trustees thereof.

4. *Show what relations the infant has (n); as thus:* The only relations of the said A. B. now living are:—(1) This deponent, his maternal uncle; (2) S. H., wife of T. H., of (*residence and addition*), the half-sister of the said A. B.; and (3) R. D. V., the half-brother of the said A. B.; who is a captain in Her Majesty's army, and is now stationed with his regiment at Bombay, in the East Indies.

5. *Show where the infant is now residing, and under whose care; as thus:* The said A. B. was, at the time of the death of his father C. D., which happened on the ——, 188—, and is now, residing as a scholar, at Marlborough College, Wiltshire.

6. (*Show means of knowledge.*)

7. *State willingness to act as guardian; as thus*: I am willing to act as the guardian of the person and estate (*or as may be*) of the said A. B., during his minority, in case this honourable Court shall think fit to appoint me to that office.

And I, the said W. R., for myself say, as follows:

8. *Show fitness of proposed guardian; as thus:* I know, and have for —— years last past been well acquainted with, the deponent C. D. The said C. D. is married, and has three children; namely: a son of the age of —— years; and two daughters of the respective ages of —— and —— years. The said C. D. resides with his wife and children at (*State where*). In my judgment and belief the said C. D. is a fit and proper person to be appointed the guardian of the person and estate [*or as may be*] of his nephew the said infant A. B., for the following reasons (*State them*).

Sworn (*&c.: See* Form 10).

1376. Consent of guardian to act (*o*). [Dan. Pr. 1119.]

(*Short title and reference to the record.*)

I, the undersigned C. D., of (*residence and addition*), do hereby testify my consent to accept the office of guardian of the person and estate [*or*

(*n*) What "relations" are to be included in the statement is a matter of discretion in each case. As a general rule, it should at least be shown what persons there are of or within the same degree of relationship as the proposed guardian; and if the mother is proposed as a guardian, the evidence should extend to uncles and aunts on the father's and mother's sides. The summons should be served upon such relations, unless their acquiescence in the appointment of the proposed guardian is otherwise proved, or service on them is dispensed with: Bloxam, 13; Dan. Pr. 1119.

(*o*) For form of affidavit verifying the signature, see Form 1275, which can readily be adapted. Where, as in Form 1375, the willingness to act of the proposed guardian is shown by his affidavit, his separate written consent to act is not required.

as may be] of the above-named infant A. B. [*or as may be*], in case this Court shall think fit to appoint me to that office. Dated this —— day of ——, 188—.

C. D.

Signed by the said C. D., in the presence of
J. K., of (*residence and addition*).

1377.

Recognizance by a guardian of the estate and his sureties, after an order appointing him subject to his giving security (*p*). [Dan. Pr. 1120.]

Proceed as in Form 1302, *to the first* whereas; *then recite the order appointing the guardian, subject to his giving security; and continue thus:*

And whereas Mr. Justice ——, the Judge to whom the said action [*or*, matter] is assigned, hath approved of the above bounden C. D. and E. F. as sureties for the said L. M.; and hath also approved of the above-written recognizance, with the under-written condition, as a proper security to be entered into by the said L. M., C. D., and E. F., pursuant to the said order, and the Rules of the Supreme Court in that behalf; and in testimony of such approbation the Chief Clerk of the said Judge hath signed an allowance in the margin hereof:

Now the condition of the above-written recognizance is such, that if the said L. M. do and shall duly account for all and every the sum and sums of money which he shall receive on account of the estate of the said infant A. B., and the rents and profits and other income thereof, at such periods as the said Judge shall appoint, and do and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court or Judge hath directed, or shall hereafter direct: then the above recognizance shall be void and of none effect: otherwise the same is to be and remain in full force and virtue.

Taken and acknowledged (*&c.: see* Form 1302).

1378.

The like recognizance, after approval of the guardian, but before an order appointing him is made. [Dan. Pr. 1120.]

Proceed as in Form 1302, *to the first* whereas; *and continue thus:*

Whereas an application was lately made to the High Court of Justice by a summons taken out at the Chambers of Mr. Justice ——, on behalf of A. B., an infant, by the above bounden L. M. as his next friend, and intituled "In the matter of A. B., an infant, by L. M. his next friend" [*or as may be*], that the said L. M., or some other proper person, might be appointed the guardian of the estate of the said infant during his minority, or until further order [*or as may be*].

And whereas Mr. Justice ——, upon the hearing of the said application, has approved of the said L. M. as a proper person to be appointed

(*p*) For form of memorandum of approval, see Form 1302, margin. Security is not ordinarily required, if the estate consists of realty or leaseholds, and the whole of the rents are allowed for maintenance: Dan. Pr. 1120.

such guardian, subject to his first giving security; and has also approved of the above bounden C. D. and E. F. (*Continue as in* Form 1377, *to the end; omitting the words* "the said order and"].

1379. Affidavit of the sureties, as to their solvency. [Dan. Pr. 1120.]

(*The same as* Form 1303: *substituting the words* "for all moneys which he shall receive on account of the estate of the said infant A. B., and the rents, profits, and other income thereof" [*or as may be, according to the condition of the recognizance*] *for the words:* "for the deposits to be received by him on the sale in this action [*or*, matter]"].

1380. Account of the guardian of an estate, and affidavit verifying same (*q*). Dan. Pr. 1120.]

(*These forms can be readily adapted from the like forms in use in the case of a receiver: for which see* Forms 1705, 1706.)

1381. Summons to remove a guardian, or supply a vacancy (*r*). [Dan. Pr. 1120.]

Proceed as in Form 1371 *or* 1372, *to* further order; *and add:* in the place of X. Y., his present guardian [*or*, now deceased—*or*, who has intermarried with W. U.—*or as may be; and add, if desired, a direction for payment of the costs of the application*].

1382. Affidavit in support. [Dan. Pr. 1120.]

Formal parts: see Form 6.

1. (*Show how the guardian sought to be removed, or deceased, or married, was appointed.*)

2. (*Show the grounds for such removal—or prove such death, or marriage.*)

3. (*Show the fitness to be appointed of the proposed guardian, and his consent to act*) (*s*).

4. (*Show with whom, or under whose care, the infant is living.*)

1383. Summons for the appointment of a guardian for a special purpose (*t*). [Dan. Pr. 1116, note (*m*).]

Proceed as in Form 1371 *or* 1372, *to* proper person; *and add:* may be appointed the guardian of the said infant, for the purpose of (*State what; as thus:* presenting the Rev. E. F., of (*residence*), Clerk in Holy

(*q*) The accounts of guardians are to be passed and verified in the same manner as receivers' accounts: R. S. C. Ord. L. 24; R. S. C. Oct. 1884, 14.

(*r*) For form of order for removal of a guardian for misconduct, see 2 Seton, 720, No. 7.

(*s*) For form of consent to act, see Form 1376.

(*t*) For forms of orders for appointment of special guardians, see 2 Seton, 721, 722, Nos. 10, 11, 12, 13.

Orders, to the Lord Bishop of London, for institution to the rectory and parish church of A., now vacant by the death of the Rev. G. H.: of the advowson whereof the said infant is patron or proprietor).

1384.

Summons for leave to take infant out of the jurisdiction (*u*). [Dan. Pr. 1121.]

Formal parts: see Form 43 *or* 1077.

on the part of the infant plaintiff [*or as may be*], that the said infant may be at liberty to accompany J. R. P. (*guardian*), on an intended visit to the L. C. R., in the K. of S.: on the undertaking of the said J. R. P. that the said infant shall return within the jurisdiction of this Court within (two months) from this time; or immediately, if so ordered by this Court.

1385.

Undertaking to bring infant back (*v*). [Dan. Pr. 1121.]

(*Short title and reference to the record.*)

I, A. B., the guardian of the person of the infant C. D., do hereby undertake that the said infant shall return within the jurisdiction of this Court within —— months from this time; or immediately, if so ordered by this Court, or any Judge thereof. Dated this —— day of ——, 188—.

A. B.

(2. 3.) *Maintenance and Advancement.—Management of Property* (*w*).

(*Dan. Pr.*, pp. 1122—1128—1131.)

1386.

Summons for an allowance for maintenance (*x*). [Dan. Pr. 1126.]

Formal parts: see Form 43 *or* 1077.

on the part of the infant plaintiff [*or as may be: see* Form 1371]:

That the sum of £—— per annum (free of income-tax (*y*)) may be allowed for the maintenance and education of the said infant, as from

(*u*) For forms of orders, see 2 Seton, 749, 750, Nos. 9, 11; and see, as to residence abroad, *Ibid.*, 753; Simpson, 146, 147, 233, 297.

(*v*) The undertaking is usually indorsed on the summons. If it is not so indorsed, but is contained in a separate document, it is usually kept with the file of proceedings in Chambers.

(*w*) As to maintenance of infants, see 11 Geo. IV. & 1 Will. IV. c. 65, s. 32; 44 & 45 Vict. c. 41, ss. 42, 43; Macpherson, 213—258, lxx.—lxxii.; Chambers, 250—379, 892—898; Lewin, 124—127, 507—511; 2 Seton, 729—732; Simpson, 240—297. As to advancement, see Chambers, 380—388, 821; Macpherson, 253, 255, 335—337, xxxi.; 2 Seton, 1254; Simpson, 298—304. As to the jurisdiction of the County Courts, see 28 & 29 Vict. c. 99, s. 1. As to the management of an infant's property by the Court, see Chambers, 508—596; Macpherson, 330—347; 2 Seton, 733—742; and see 44 & 45 Vict. c. 41, ss. 41, 42. As to granting leases on behalf of infants, see Chap. XXXVIII. ss. 13, 43; and as to the conversion of an infant's property, see Macpherson, 278—308; Chambers, 565—570; Simpson, 323—325; 2 Seton, 740—742. Since the Married Women's Property Act, 1882 (45 & 46 Vict. c. 75), it seems that upon an application for maintenance by the mother of an infant, her ability to maintain must be taken into consideration: see s. 21.

(*x*) For forms of order for maintenance, see 2 Seton, 719, Forms 3—6. For form of order for advance for maintenance out of income of contingent share, secured by a policy, see *Re Arbuckle*, 14 W. R. 535; 2 Seton, 726, No. 2. For form of order charging maintenance on real estate, see 2 Seton, 727, No. 3.

(*y*) See Dan. Pr. 1127: S. C. Funds Rules, 1884, r. 68.

the —— day of ——, 188—, and for the time to come, during his minority, or until further order.

If guardian of the person be also guardian of the estate, add: And that such allowance may be retained and applied by W. F., the guardian of the person and estate of the said infant, by equal half-yearly payments, on the —— day of ——, and —— day of ——, out of the income of the said infant's estate: the first of such payments to be retained on the —— day of ——, 188—.

Or if a receiver has been appointed, or another person is guardian of the estate, add: And that such allowance may be paid by W. F., the guardian of the estate of the said infant [*or*, the receiver appointed in this action [*or*, matter]], by equal half-yearly payments (*as above*); and that he may be allowed the same on passing his accounts.

Or if to be paid out of a fund in Court, add: And that such allowance may be paid to W. F., the guardian of the said infant, by equal half-yearly payments (*&c., as above*), out of the dividends as they accrue on the £——, consolidated £3 per cent. annuities in Court, to the credit of (*&c., as in Paymaster's certificate*).

(*Add, if desired, a direction as to the taxation and payment of the costs of the application: see* Form 1374.)

1387. Affidavit in support of summons for allowance for maintenance. [Dan. Pr. 1126.]

Formal parts: see Form 6.

1. (*Show the age of the infant, the nature and amount of his fortune, what relations he has, where he is residing, and under whose care: see* Form 1375.)

2. (*Show that the fund proposed to be operated upon for maintenance is available for that purpose.*)

3. (*Show that the sum sought to be allowed for maintenance is a proper amount; and set forth, in a schedule, a scheme for the application thereof, under the following or similar heads:*)

School bills	
Clothing	
Pocket money	
Medical attendance	
Maintenance, travelling, and incidental expenses in vacations	
Total	£

1388. Summons for an increase of maintenance (*z*). [Dan. Pr. 1126.]

Formal parts: see Form 43 *or* 1087.

on the part of the infant plaintiff A. B. [*or as may be*], that the sum of £—— per annum may be allowed, in addition to the sum of £—— per

(*z*) For form of order, see 2 Seton, 725, No. 1.

annum, allowed by the order dated the —— day of ——, 188—, making together £—— per annum, for the maintenance and education of the said infant A. B., as from the —— day of ——, 188—, and for the time to come during his minority; and that such increased allowance of £—— a year may be raised and paid in the same manner as the said allowance of £—— is directed to be raised and paid by the said order of the —— day of ——, 188— [*or as may be*]—*Add, if desired, a direction for payment of the costs: see* Form 1374.

1389.

Summons for leave to article or apprentice an infant (*a*). [Dan. Pr. 1127.]

Formal parts: see Form 43 *or* 1077.

on the part of the infant plaintiff [*or as may be: see* Form 1371]:

1. That the said infant may be placed out as an articled clerk [*or*, apprentice] with A. B., of (*residence and addition*), for the purpose of being instructed in the profession [*or*, trade] of a ——.

2. That £—— may be allowed as a proper premium to be paid to the said A. B., and the further sum of £—— for the outfit of the said infant.

3. That proper articles of clerkship [*or*, a proper indenture of apprenticeship] may be approved by the Judge.

4. That upon the execution of such articles [*or*, indenture] by the parties thereto (*State how the premium, and outfit, are to be raised: as thus:*

E. F., the guardian of the said infant, may, out of the rents and profits of his estate, pay to the said A. B. the said premium of £——; and apply the said £—— for such outfit.

Or, C. D., the trustee of the will of E. W., deceased [*or*, B. C., the receiver appointed in this action], may, out of the rents and profits of the said infant's estate, pay the said premium of £—— to the said A. B., and pay the said outfit of £—— to the said E. F.: on the undertaking of the said E. F. to apply the same for that purpose.

Or, the said sums of £—— and £—— may be raised by the sale of a competent portion of the £—— consolidated £3 per cent. annuities in Court, to the credit of (*&c., as in the Paymaster's certificate*); and that out of the money thereby arising the said £—— may be paid to the said A. B., and the said £—— to the said E. F. (*&c.: as last above*).

5. *Add, if desired, a direction as to the costs: see* Form 1374.

1390.

Affidavit in support. [Dan. Pr. 1127.]

Formal parts: see Form 6.

1. The (above-named) infant G. H. is now of the age of —— years. He has, of his own free will, chosen to be brought up to the profession [*or*, trade] of a ——; and wishes to be articled [*or*, apprenticed] to

(*a*) For form of order, see 2 Seton, 728, No. 6.

learn such profession [*or*, trade]. In my opinion he is physically adapted for such profession [*or*, trade].

2. I have for —— years last past known and been well acquainted with A. B., of (*residence and addition of master*); and during —— years last past he has been continuously and extensively engaged in his profession [*or*, trade] of a ——.

3. The said A. B. resides with his wife and family; and from my knowledge of him, and from inquiries I have made of various persons also acquainted with him, I believe the said A. B. to be a person of good moral character, of respectability and integrity, and well versed in the said profession [*or*, trade] of a ——. In my judgment and opinion the said A. B. is a fit and proper person to have, and fully competent to instruct, an articled pupil [*or*, apprentice] in the said profession [*or*, trade].

4. The said A. B. is willing to take the said infant as an articled clerk [*or*, apprentice] in his said profession [*or*, trade] for a term of —— years, on being paid a premium of £——.

5. I have made inquiries of various persons engaged in the said profession [*or*, trade] of a ——; and am informed by them, and believe, that the said premium of £—— is a reasonable and proper sum to be paid to a person in the position of the said A. B., for the purpose aforesaid.

6. The said infant will require an outfit on his being articled [*or*, apprenticed]; and, from inquiries I have made on the subject, I believe the sum of £—— will be a necessary and proper sum to be expended for such outfit.

1391.

Articles of apprenticeship of an infant. [Dan. Pr. 1128.]

This indenture, made the —— day of ——, 188—, between A. B., of (*place of business and addition of the master*), of the one part, and E. H., of (*residence and addition*), the father of G. H.,

Or, the guardian of G. H., appointed by an order, dated the —— day of ——, 188—, of the High Court of Justice, in an action wherein the said G. H. is plaintiff, and X. Y., and others, are defendants,

Or, in a matter intituled, in the matter of —— [*or as may be*],

and the said G. H., an infant of the age of —— years, of the other part:

Whereas by an order of the High Court of Justice, made in the said action [*or*, matter], and dated the —— day of ——, 188—, it was ordered that (*Recite the order approving the apprenticeship: as thus:* the said infant should be placed out as an apprentice with the said A. B., for the term of —— years, for the purpose of being instructed in the trade of a ——; and that £—— should be allowed as a premium to be paid to the said A. B. on that occasion):

And whereas this indenture has been settled and approved by his lordship Mr. Justice ——, the Judge to whom the said action [*or*, matter] is assigned, as an indenture proper to be executed by the several

parties thereto for the purpose aforesaid: as appears by the certificate of the Chief Clerk of the said Judge, dated the —— day of ——, 188— [*or*, by the memorandum in the margin hereof, signed by the Chief Clerk the said Judge].

If the execution of the indenture is to precede the drawing up of the order (*b*), *substitute the following for the last recital:*

And the Judge being of opinion that the indenture in the said order mentioned, and intended to be made between the parties therein named, and identified by the signature of his Chief Clerk in the margin of the engrossment thereof (meaning thereby these presents, and the memorandum in the margin hereof), was an indenture proper to be executed by the parties thereto for the purpose aforesaid, it was ordered that the said A. B., E. H., and G. H., should execute the same accordingly:

Now this indenture witnesseth, that the said G. H., pursuant to the said order, and of his own free will, doth hereby place and bind himself as an apprentice to the said A. B. in the said trade or business of a ——: to well and faithfully serve him from the date hereof, for the full term of —— years, thence ensuing. And the said A. B., in consideration of the sum of £——, to be paid to him in the manner in the said order mentioned [*or as may be*], and of the covenants and agreements herein contained on the part of the said E. H., doth hereby for himself, his heirs, executors, and administrators, covenant with the said E. H., his executors and administrators, that he the said A. B. will accept and take the said G. H. as his apprentice for the term aforesaid; and will, to the best and utmost of his skill and knowledge, teach and instruct, or cause to be taught and instructed, the said G. H. in his said trade or business of a ——; and will, at the expiration of the said term, in case the covenants and agreements on the part of the said E. H. shall have been duly performed, deliver up to the said G. H. this indenture, together with a certificate of the due and faithful service of the said G. H. thereunder; and that in case either of them the said A. B. and G. H. shall die during the first three years of the said term, he the said A. B., or his executors or administrators, will repay and return, to such person, or in such manner, as the said Court, or any Judge thereof, shall direct, the proportionate part following of the said premium of £——; namely: if such death shall happen during the first year of the said term, the sum of £——; and if during the second year thereof, the sum of £——; and if during the third year thereof, the sum of £——.

If the master is to make a periodical allowance to the apprentice, or to maintain or clothe him, &c., add a covenant by him to that effect.

And the said E. H. [*If so:* as such guardian as aforesaid], doth hereby for himself, his heirs, executors, and administrators, covenant with the said A. B., his executors, administrators, and assigns, that the said G. H. will well and faithfully serve the said A. B., as his apprentice in his said trade or business, from the date hereof, for the full term of —— years, thence ensuing; and will not at any time during the continuance

(*b*) See Dan. Pr. 1128, note (*k*).

of the said term, destroy, embezzle, spend, or make away with any of the books, accounts, papers, moneys, or other property of the said A. B. And will, from time to time, and at all times during the continuance of the said term, keep the secrets of the said A. B., and readily and cheerfully obey and execute his lawful and reasonable commands; and will not, at any time during the continuance of the said term, absent himself from the service of the said A. B. without first obtaining his consent thereto; but will, during the said term, demean himself in all things towards the said A. B. and his family as a good and faithful apprentice.

If the father or guardian is to maintain, and clothe, &c., the infant during the term, add a covenant on his part to that effect.

In witness, *&c.*

(4.) *Marriage and Marriage Settlements* (*c*).

(*Dan. Pr.*, pp. 1131—1139, cccxciii.)

1392. Petition to interdict marriage of ward of Court (*d*). [Dan. Pr. 1131.]

Formal parts: see Form 40.

The humble petition of A. B., of (*residence and addition*), the guardian of the above-named plaintiff C. D., an infant [*or as may be*].

Showeth as follows:

1. *Show how infant has become a ward of Court; as thus:* This action has been instituted by the said plaintiff C. D., by E. F., her next friend, for the purpose of having the estate of G. D., deceased, the father of the said C. D., administered under the direction of this honourable Court. The said C. D. is, under the will of the said G. D., entitled to one-fourth of the clear residue of his personal estate: which is of considerable value.

2. *Show present age of infant; as thus:* The said C. D. is now of the age of —— years: having been born on the —— day of ——, 18—.

3. *Show appointment of guardian, if any; as thus:* By an order made in this action, dated the —— day of ——, 188—, your petitioner was appointed the guardian of the said C. D. during her minority, or until further order.

4. *Show the grounds for the belief that a clandestine marriage is in contemplation; and with whom; and, if so, that the intended wife, or husband, is not a fit person.*

Your petitioner therefore humbly prays, that the said X. Y. and C. D. (*intended husband and wife*) may be restrained from intermarrying; and from having any interview, intercourse, or communication with each other, in any manner whatsoever.

Or that (*Conclude as in* Form 40, *and add foot note,* Form 41).

(*c*) As to marriage of wards of Court, and settlements thereon, see Macpherson, 191—209; Chambers, 899—901; Simpson, 305—322; 2 Seton, 763—765.

(*d*) For forms of orders, see 2 Seton, 758—760. The application may also be made by motion.

1393.

Notice of motion to commit husband for marrying ward without consent (*e*). [Dan. Pr. 1132.]

Formal parts: see Form 38.

on the part of the plaintiff [*or as may be*], that A. B., of (*residence and addition*), may be committed to prison for a contempt of this honourable Court in having married the infant defendant E. F. [*or as may be*] without the leave of this Court.

1394.

Notice of motion for inquiry as to validity of marriage of ward (*f*). [Dan. Pr. 1132.]

Formal parts: see Form 38.

on the part of A. B., the guardian of the above-named infant C. D. [*or as may be*], that an inquiry may be made whether the said infant C. D. has contracted a valid marriage with F. G., of (*residence and addition*), and under what circumstances; and in case a valid marriage has been contracted, that a proper settlement of the fortune of the said infant may be approved by the Judge.

1395.

Petition for the like. [Dan. Pr. 1132.]

Proceed as in Form 1392, *to the end of paragraph* 3.

4. (*Show grounds for the belief that a marriage has taken place; with whom, when, and where; and by whose connivance.*)

Your petitioner therefore humbly prays, that an inquiry may be made whether the said infant C. D. has contracted a valid marriage with the said F. G., and under (*Continue as in* Form 1394, *to the end*).

Or that (*Conclude as in* Form 40, *and add foot note,* Form 41).

1396.

Petition under the Marriage Act, for judicial approval of a marriage (*g*). [Dan. Pr. 1133, 1134.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

In the matter of A. B., an infant, by C. D., her next friend, and of the Act of Parliament 4th George the 4th, chapter 76, intituled "An Act for amending the laws respecting the solemnisation of marriages in England."

To Her Majesty's High Court of Justice.

The humble petition of the above-named infant A. B., by C. D., of (*residence and addition*), her next friend.

Showeth as follows:

1. Your petitioner is of the age of —— years: having been born on the —— day of ——, 18—.

2. Your petitioner is desirous to marry E. F., of (*residence and addition*): who is of the age of —— years.

(*e*) For form of order, see 2 Seton, 760, No. 12. For form of order for discharge, *Ibid.*, 762, No. 14.

(*f*) See 2 Seton, 761, 764.

(*g*) See 4 Geo. IV. c. 76, ss. 16, 17. For forms of order, see 2 Seton, 767, Nos. 1, 2; and as to the Act generally, *Ibid.*, 769, 770.

3. *Show the special grounds for the application; as thus:* C. B., the father of your petitioner, is *non compos mentis*. He has been found of unsound mind by proceedings in lunacy; and is at present an inmate in the asylum kept by L. M. for insane persons, at ——.

4. The fortune of your petitioner consists of the following particulars (*State them*). It is intended that the fortune of your petitioner shall, on the said marriage, be vested in trustees on the usual trusts for your petitioner and the said E. F. successively for life; with remainder to the children or remoter issue of their marriage; with remainder to your petitioner if she survives the said E. F., and, if not, then, on his death, to her testamentary appointees, or statutory next of kin [*or as may be*].

5. The said proposed marriage is a fit and proper marriage for your petitioner; but by reason of the mental incapacity of your petitioner's father [*or as may be*], the consent of this honourable Court to the said marriage is necessary under the provisions of the said Act.

Your petitioner therefore humbly prays, that it may be declared that the said intended marriage between your petitioner and the said E. F. is a fit and proper marriage within the intent and meaning of the said Act of Parliament; and that your petitioner and the said E. F. may be at liberty to contract the same accordingly.

Or that (*Conclude as in* Form 40; *and add foot note,* Form 41).

1397. Affidavit in support. [Dan. Pr. 1134.]

Formal parts: see Form 6.

1. (*Verify the statements in the petition.*)

2. (*Show means of knowledge.*)

1398. Affidavit of parent or guardian to found action under the Marriage Act for a forfeiture on a valid marriage improperly procured (*h*). [Dan. Pr. 58—62.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

In the matter of the marriage solemnised between A. B. and C. D.; and of the Act of Parliament 4th George the 4th, chapter 76, intituled "An Act for amending the laws respecting the solemnisation of marriages in England."

I, G. B., of (*residence and addition*), make oath and say as follows:—

1. *Show that the deponent is a parent or guardian; as thus:* I am the father of the above-named A. B.;

Or, I am the testamentary guardian of the above-named A. B., appointed by the will of her father H. B., late of, *&c.; or as may be;*

and I am the relator to the action intended to be commenced by Her Majesty's Attorney [*or,* Solicitor] General in respect of the above-

(*h*) See 4 Geo. IV. c. 76, s. 23; 6 & 7 Will. IV. c. 85, s. 43; 19 & 20 Vict. c. 119, s. 19. For forms of order, see 2 Seton, 767, 768, Nos. 3, 4.

mentioned marriage, under the provisions of the above-mentioned Act of Parliament.

2. *Show marriage of parents; as thus:* I [*or*, The said H. B., deceased] was married to E. F., spinster, at the parish church of M., in the county of N., on the —— day of ——, 18—. The paper writing now produced and shown to me, and marked G. B. 1 (*i*), and purporting to be a certified copy of an entry in the register book of marriages kept for the said parish of M., for the year 18 , relates to the said marriage.

3. *Show that the infant is a child of the marriage, and the age; as thus:* The said A. B. is one of the children of the said marriage. The said A. B. was born on the —— day of ——, 18— ; and she is the same person as "A. daughter of H. and E. B.," named in the paper writing now produced and shown to me, and marked G. B. 2 (*i*), and purporting to be a copy, under the seal of the General Register Office, of the certified entry No. ——, in the certified copy of entries of births in the district of I., in the county of L., for the year 18— [*or as may be*].

4. *Show marriage of infant; as thus:* On the —— day of ——, 188—, a marriage was solemnised at the parish church of O., in the county of P., between the above-named C. D., of (*residence and addition*), and the said A. B. The said A. B. and C. D. are respectively the same persons as "C. D. and A. B.," respectively named in the paper writing marked G. B. 3 (*i*), now produced and shown to me, and purporting to be a certified copy of an entry in the register book of marriages kept for the said parish of O. for the year 188— [*or as may be*].

5. *Show that the marriage has been solemnised in such manner, and under such circumstances, as are sufficient to authorise the bringing of the action; and that such marriage has been solemnised without the consent of the party or parties at whose relation the same is proposed to be brought, or of any other parent or guardian of the minor, to the knowledge or belief of the deponent; and that the deponent has not known or discovered that such marriage has been solemnised more than three months previous to the application to the Attorney or Solicitor General* (*j*).

6. *Show means of knowledge.*

Sworn (*&c.: see* Form 9).

1399.

Summons for leave for a ward of Court to marry (*k*). [Dan. Pr. 1135.]

Formal parts: see Form 43 *or* 1077 ; *adding, where applicable, the*

(*i*) Exhibit same. For memorandum of exhibit, see Form 28 ; and note (*ss*) thereto.

(*j*) See 4 Geo. IV. c. 76, s. 23.

(*k*) The application is now made by summons, even if, as is usual, resort is had to 18 & 19 Vict. c. 43 : see R. S. C. Ord. LV. 2 (10). For form of petition for like purpose, see Dan. Forms, 3rd ed., No. 1221. As to the evidence which is required in support of the application, see Dan. Pr. 1134, 1135 ; R. S. C. Ord. LV. 26 ; and note (*a*), at p. 580. For forms of order in Chambers on adjourned petitions for leave to marry a ward of Court, see 2 Seton, 755, 756, Nos. 1, 3, 4. For form of order approving settlement of fortune of an infant, not a ward, *Ibid.*, 757, No. 5. For form of order approving marriage, and settling a fund without deed, *Ibid.*, 755, No. 2.

following to the title of the summons: And in the matter of the Act of Parliament, 18 & 19 Victoria, chapter 43, intituled "An Act to enable infants, with the approbation of the Court of Chancery, to make binding settlements of their real and personal estate on marriage."
on the part of the above-named infant, E. F., by G. H., her testamentary guardian [*or as may be*]:

1. That the applicant may be at liberty to accept proposals of marriage made to her by J. K., of (*residence and addition*).

2. That a proper settlement prior to such marriage may be settled and approved by the Judge.

3. That, upon the execution of such settlement by all necessary parties, the applicant and the said J. K. may be at liberty to intermarry.

4. (*Add clause as to taxation and payment of costs, where desired.*)

1400.

Proposals for a settlement (*l*). [Dan. Pr. 1135.]

(*Short title and reference to the record.*)

The proposals of the infant E. F., and of J. K., for a settlement to be executed on their marriage.

1. The property of the said E. F. consists of (*State what; see par.* 3 *of* Form 1375.)

2. The property proposed to be settled by the said J. K. consists of (*State what*).

3. The trustees proposed on behalf of the said E. F. are,
A. B., of (*residence and addition*), and C. D., of, *&c.*

4. The trustees proposed on behalf of the said J. K. are,
B. C., of, *&c.*, and X. Y., of, *&c.* (*m*).

5. It is proposed to vest the whole of the fortune of the said E. F. in the said four trustees, upon the following trusts (*State the same shortly; as thus:*

Upon trust for the said E. F. till the marriage; and after the marriage,

Upon trust to pay the income to the said E. F., for her separate use, but without power of anticipation, during the joint lives of the said E. F. and J. K.; and after the decease of either, to pay the income to the survivor for life.

After the death of the survivor, the corpus to be held in trust for the children or remoter issue of the marriage, as the said E. F. and J. K. shall jointly by deed, and, in default, as the survivor shall by deed or will, appoint; and subject to any such appointment, in trust for the children of the marriage equally: to vest in sons at twenty-one, and in daughters at twenty-one or marriage.

(*l*) For forms of proposals, see 3 Davidson Conv. 905—911. As to settlements of real and personal estate, see 45 & 46 Vict. c. 38; 2 Prideaux Conv. 200—223; 3 Davidson Conv. 1—703. For precedents of marriage settlements in general, see 2 Prideaux, 227—348; 3 Davidson, 705—1278; and with the sanction of the Court, *Ibid.*, 822—910, 1182—1834; Peachey, 790—810. As to the stamp duties, see 33 & 34 Vict. c. 97, Sched.

(*m*) Except in very small cases there should, if possible, be at least three trustees of the settlement.

In default of issue, the corpus to be held in trust for the said E. F., if she survives the said J. K.; and if not, then in trust for her testamentary appointees, or statutory next of kin, as if she had never been married.

6. Power to be reserved to the said E. F., if she survives the said J. K. to make a settlement, out of her fortune, on a subsequent marriage (*n*); to the extent of one-half, if but one child of the present marriage; and of one third, if two or more such children. The settlement to contain an agreement to settle any other or future property of the said E. F., amounting, at any one time, at the time of the acquisition thereof in possession, to £——: except plate, jewels, and similar articles: which excepted articles are to be held for her separate use.

7. *Set out, in like manner, the proposed trusts of the property to be settled by the husband.*

8. The settlement also to contain all such provisions as to maintenance, advancement, hotchpot, investment and transposition, appointment of new trustees and reimbursement, as the Judge may approve.

1401.

Preparation and completion of the settlement. [Dan. Pr. 1135.]

See the following forms: which can be readily adapted:

Direction to the conveyancing counsel to settle the draft: Form 1279.

Certificate on copy draft: Form 1204.

Affidavit of eligibility of the proposed trustees: Form 1273.

Their consent to act: Form 1274.

Affidavit verifying their signatures thereto: Form 1275.

Affidavit of examination of engrossment of the settlement: Form 1205.

Memorandum of identity: Form 1206.

Affidavit of the execution of the settlement: Form 1216.

Certificate of the execution thereof: Form 1217.

1402.

Affidavit proving the marriage. [Dan. Pr. 1136.]

Formal parts: see Form 6.

1. J. K. and E. F. respectively named in the paper writing now produced and shown to me, and marked A. B. 1 (*o*), and purporting to be a certified copy of an entry in the register book of marriages kept for the parish of A., in the county of B., for the year 188—, of the marriage of J. K. and E. F., are respectively the same persons as J. K. and E. F., in the order made in this action [*or*, matter] dated the —— day of ——, 188—, respectively named: as I know (*State means of knowledge; as thus:* from having been present at the said marriage).

(*n*) See *Rudge* v. *Winnall*, 11 Beav. 98; *Bathurst* v. *Murray*, 8 Ves. 74; Dan. Pr. 1135, note (*m*).

(*o*) Exhibit same. For form of memorandum of exhibit, see Form 28; and see note (*ss*) thereto.

1403.
Summons for sanction to a settlement under 18 & 19 Vict. c. 43, where the infant is not a ward of Court (*p*).
[Dan. Pr. 1137, cccxciii.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge*).
In the matter of A. B., an infant, by G. H., her [*or*, his] next friend [*or*, guardian] :
And of the Act of Parliament, 18th & 19th Victoria, chapter 43, intituled (*&c. : as in* Form 1399).
Let (*&c. : as in* Form 1078, *down to* application)
on the part of the above-named A. B., an infant, by the above-named G. H., of (*residence and addition*), her [*or*, his] next friend [*or*, guardian] :
That a proper settlement of the property of the applicant may be sanctioned by the Court ; and that the applicant may be at liberty, upon or in contemplation of her [*or*, his] marriage with E. F., of (*residence and addition*), to execute such settlement.

1404.
Affidavit in support of the summons (*q*).
[Dan. Pr. 1137, 1138.]

Formal parts : see Form 6.
We, M. A. F., of (*residence*), widow, and H. K., of (*residence and addition*), severally make oath and say as follows :—
And first I, the said M. A. F., for myself say, as follows :—
1. *Show the infant's age ; as thus :* I am the mother of the above named infant E. F. : she was born on the —— day of ——, 18— (*r*).
2. *Show whether the infant has any parents or guardians ; as thus :* My husband H. F., the father of the said infant E. F., died on the —— day of ——, 188—. The said E. F. has no testamentary guardian, and no guardian appointed by this honourable Court.
3. *Show with whom, or under whose care, the infant is living ; and, if the infant has no parents or guardians, what near relations the infant has ; as thus :* Since the death of my said husband, the said E. F. has resided, and is now residing, with me at ——, aforesaid.
4. *Show the rank and position in life of the infant and parents ; as thus :* My said late husband, H. F., at the time of his death, and for many years prior thereto, carried on an extensive business as a shipowner and general merchant.
5. *Show what the infant's property and fortune consist of ; as thus :* Under the will of the said H. F. the said E. F. is entitled, contingently upon her attaining the age of 21 years, or marrying sooner, to the following properties : (*State what.*)
6. J. K., of (*residence and addition*), has made proposals of marriage to my said daughter E. F. Such marriage will, in my judgment and

(*p*) The application must now be by summons : see R. S. C. Ord. LV. 2 (10) ; and note (*a*), at p. 580.
(*q*) See R. S. C. Ord. LV. 26 ; and note (*a*), at p. 580.
(*r*) If any other person than the mother makes the affidavit, a certificate of the birth or baptism should be produced, and the infant identified therewith by the affidavit. The infant, if a male, must have attained the age of twenty years ; and, if a female, the age of seventeen years : 18 & 19 Vict. c. 43, s. 4.

belief, be a proper and eligible marriage for my said daughter, and it has received my sanction (*s*).

7. (*Show means of knowledge.*)

And I, the said H. K., for myself say, as follows :—

8. *Show the age, rank, and position in life of the person to whom the infant is about to be married; as thus:* I am the father of J. K., of (*residence and addition*), the person who has made proposals of marriage to the said E. F. The said J. K. is of the age of —— years. The said J. K. is a solicitor of the Supreme Court; and has been in practice as such for —— years last past. His professional income for the last —— years has amounted, as I am informed by him and believe, to the sum of £—— per annum or thereabouts.

9. *Show what property, fortune, and income such person has; as thus:* My said son is entitled, on the death of the survivor of me and L. K., my wife, under the trusts of the indenture of settlement made on our marriage, and dated the —— day of ——, 18—, to one-third share of and in (*Set out particulars of the trust property, and of any other property to which the intended husband may be entitled*).

10. (*Show means of knowledge.*)

Sworn (*&c.: see* Form 10).

1405.

Preparation and completion of the settlement.

[Dan. Pr. 1138.]

(*See the forms referred to in* Form 1401 : *which can be readily adapted.*)

1406.

Recital in the settlement of the order approving the same.

[Dan. Pr. 1139.]

And whereas by an order of the High Court of Justice, made in the matter of E. F., an infant, by (*Set out the title of the order*), and dated the —— day of ——, 188—, after premising that the Judge was of opinion that the settlement proposed to be effected by the indenture thereinafter mentioned was a proper settlement to be made upon or in contemplation of the intended marriage of the infant E. F. with J. K., in the order named, of the property of the said infant comprised therein; and that the indenture marked X, intended to be made between (*Set out the parties, as in the settlement*), and identified by the signature of the Chief Clerk in the margin of the engrossment thereof (meaning thereby these presents, and the signature in the margin hereof), was a proper indenture for giving effect to such settlement, Mr. Justice ——, the Judge to whom the said matter is assigned, did, pursuant to the said Act of Parliament, sanction and approve the same, and did order that the said E. F. should be at liberty, upon or in contemplation of her marriage with the said J. K., to execute these presents accordingly.

(*s*) Where the infant is not a ward, the Court is not bound to inquire into the propriety of the proposed marriage : Dan. Pr. 1138.

Section VI.—Persons of Unsound or Weak Mind, not so Found (*t*).

(*Dan. Pr.*, pp. 1139—1140.)

1407

Summons for the appointment of a *quasi* guardian and allowance for maintenance of a person of unsound mind not so found (*u*). [Dan. Pr. 1140.]

Formal parts: see Form 43, *or* 1077, *or* 1078.

on the part of A. B., a person of unsound mind not so found, by C. D., of (*residence and addition*), his next friend:

1. That the said C. D., or some other proper person, may be appointed to act as the guardian of the applicant until further order.

2. That the costs of this application may be taxed, and raised and paid out of the £—— consolidated £3 per cent. annuities in Court to the credit of this matter (*Describe the account accurately*)—*or as may be* (*v*).

3. That out of the dividends as they accrue on the residue of the said annuities, the annual sum of £—— may be allowed for the maintenance of the applicant; and be paid half-yearly on the —— day of ——, and, &c., to his said guardian, during the life of the applicant or until further order.

4. That the residue of the dividends to accrue on the said annuities may be from time to time invested in like annuities.

1408.

Affidavit in support of petition or summons. [Dan. Pr. 1140.]

Formal parts: see Form 6.

1. (*See* Forms 1375 *and* 1387.)

2. (*Prove by a medical man the present state of mind of the petitioner or applicant: see* Form 124.)

1409.

Summons under the Pauper Lunatic Acts, for payment of maintenance out of a fund in Court (*w*). [Dan. Pr. 1140.]

Formal parts: see Form 43, *or* 1077, *or* 1078.

on the part of A. B., of (*residence and addition*), treasurer of the county of C. [*or as may be*]:

1. That the costs of the said A. B., of and relating to this application, may be taxed as between solicitor and client.

(*t*) As to the original jurisdiction of the Court of Chancery, and now of the High Court, in respect of the guardianship and maintenance of persons of unsound mind not so found, see Dan. Pr. 1139, note (*u*); *Vane* v. *Vane*, 2 Ch. D. 124; *Bligh* v. *O'Connell*, 26 W. R. 311; *Re Bligh*, 12 Ch. D. 364.

(*u*) If the person of unsound mind is a party to proceedings already instituted, the application will be made by ordinary summons; otherwise by originating summons. For form of petition in the like case, see Dan. Forms, 3rd ed., No. 1233.

(*v*) It is not necessary that the fund should be in Court: *Vane* v. *Vane*, 2 Ch. D. 124: 24 W. R. 602.

(*w*) 7 & 8 Vict. c. 101, s. 27; 8 & 9 Vict. c. 100, s. 95; 12 & 13 Vict. c. 103, s. 16; 16 & 17 Vict. c. 97, ss. 94—104; 2 Seton, 1516—1518. If the person of unsound mind is a party to proceedings already instituted, the application will be made by ordinary summons; otherwise by originating summons. For form of petition in the like case, see Dan. Forms, 3rd ed., No. 1236.

2. That the £—— (*Describe the fund: according to the Paymaster's certificate*) may be sold.

3. That out of the money to arise by such sale, the said costs may be paid to the solicitor of the said A. B.

4. That the residue of such money may be paid to the said A. B., as treasurer of the county of C. [*or as may be*], in part satisfaction of the sum of £——, due to him for the maintenance and support, to the —— day of ——, 188—, of (the said) E. F., a pauper lunatic.

Section VII.—The Chief Clerk's Certificate (*a*).

(*Dan. Pr.*, pp. 1140—1153, cccxciii.—cccxciv.)

(*a*) *The Chief Clerk's Certificate.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Result of proceedings to be certified.—The result of any proceedings before the Chief Clerk must be stated in the shape of a concise certificate: which need not be signed by the Judge .	LV. 65.
Reference to judgment, &c.—The certificate must not set out the judgment or order, or any documents or evidence or reasons, but merely refer to the judgment, &c.	,, 66.
Form of certificate.—The certificate must be in the prescribed form, with such variation as circumstances may require (App. L. No. 10); and must be transcribed, and be signed by the Chief Clerk	,, 67.
Certificate in cases of accounts.—The result of the accounts must be stated, and the certificate must refer to them, and specify the numbers of the items disallowed, and the additions, if any, made by surcharge or otherwise. Where necessary, a transcript must be made. The accounts and transcript must be filed with the certificate, or retained in Chambers, and subsequently filed, as the Judge shall direct	,, 68.
Taking opinion of the Judge.—Any party may, before the proceedings before the Chief Clerk are concluded, take the opinion of the Judge upon any matter, without a fresh summons	,, 69.
When certificate becomes binding.—A certificate becomes binding, unless discharged or varied upon summons issued before the expiration of *eight clear days* after filing; or in case of certificates to be acted on by the Paymaster without further order, or certificates on receivers' accounts, upon summons issued *two clear days* after filing	,, 70.
Discharge or variation after lapse of time.—A certificate may be discharged or varied, upon application by motion or summons, if the special circumstances of the case require it, at any time after the same has become binding	,, 71.
Computation of interest, &c.—The Court or a Judge may direct any computation of interest, or the apportionment of any fund, to be certified, and to be acted on by the Paymaster or other person, without further order	,, 18.

1410.

Chief Clerk's certificate of the result of accounts and inquiries, under a judgment in an action for general administration of a testator's estate (*b*). [Dan. Pr. 1142.]

(*Title and reference to the record.*)

In pursuance of the directions given to me by Mr. Justice ——, I hereby certify that the result of the accounts and inquiries which have been taken and made in pursuance of the judgment [*or*, order] made in this action [*or*, matter] dated the —— day of ——, 188—, is as follows :

Parties attending.

The plaintiffs and defendants,

except the defendant X. Y. : who has not attended, although duly summoned, as by the affidavit of W. U., filed ——, 188—, appears : and also A. B. and C. D. : who, having been served with notice of the said judgment [*or*, order], have duly appeared : have attended by their respective solicitors.

Service of notice of judgment.

Notice of the said judgment [*or*, order] of the ——, 188—, has also been served upon E. F. and G. H.: as appears by an affidavit of W. A., filed the ——, 188—, and a certificate of the Central Office filed the ——, 188—.

Classification of parties (*c*).

By order dated the —— day of ——, 188—, it was ordered that for the purposes of the proceedings in Chambers under the said judgment [*or*, order], Mr. A. B., so long as he shall be the solicitor on the record for the plaintiff [*or as may be*], shall also represent L. M. and N. O., who have been served with notice of the said judgment [*or*, order], and have duly appeared thereto. The said L. M. and N. O. have since been represented by the said Mr. A. B. accordingly.

Parties attending proceedings at their own expense (*d*).

By order dated the —— day of ——, 188—, it was ordered that P. Q., a person served with notice of the said judgment [*or*, order], should be at liberty to attend the proceedings in Chambers under the said judgment [*or*, order] at his own expense in all things. The said P. Q. has since attended by his solicitor accordingly.

Service dispensed with (*e*).

Service of notice of the said judgment [*or*, order] upon L. M. and N. O. was dispensed with [*or as may be*]: upon an affidavit of B. C. filed the ——, 188—.

(1.) Personal estate account (*f*).

1. The defendant P. R., one of the executors of the said testator J. K., has received personal estate [*If so :* not specifically bequeathed] to the amount of £—— ; and he has paid, or is entitled to be allowed

(*b*) This form is adapted from that in R. S. C. App. L., No. 10 ; see Ord. LV. 67 ; and note (*a*), *supra*.

(*c*) See R. S. C. Ord. LV. 40, 41, 43 ; note (*l*), at p. 465 ; and Form 1163.

(*d*) See R. S. C. Ord. LV. 42, 43 ; note (*l*), at p. 465 ; and note (*n*) to Form 1163.

(*e*) See R. S. C. Ord. LV. 35 ; note (*a*), at p. 74 ; and Form 160 (4).

(*f*) Forms 1231, 1232, 1234, 1235. For the Court Fees payable on taking an account, see note (*e*) to Form 1218.

on account thereof, sums to the amount of £—— ; leaving a balance due from [*or*, to] him of £—— on that account.

Reference to account. Variations from account.

The particulars of the above receipts and payments appear in the account marked A. (*g*), verified by the affidavit of the defendant P. R., filed the ——, 188—, and which account is to be filed with this certificate ; except that in addition to the sums appearing in the said account to have been received, the said defendant is charged with the following sums, namely : (*Specify them here or in a schedule*) ; and except that I have disallowed the items of disbursement in the said account numbered ——.

Reference to a transcript (*i*).

If the account is so much altered that a transcript is necessary, substitute for the above (*Commencing with* The particulars), *the following :* The defendant P. R. has brought in his account, marked A., of his said receipts and payments, verified by his affidavit filed the ——, 188—, and which account is to be filed with this certificate. The said account marked A. has been altered ; and the account marked A. B., which is also to be filed with this certificate, is a transcript of the said account marked A. as altered and passed (*h*).

No personal estate received (*j*).

The defendant V. D., the other executor of the said testator, has not, either alone or jointly with the defendant P. R., nor has nor have any other person or persons by the order, or for the use, of the said defendants jointly, or of the defendant V. D. separately, received any part of the personal estate [*If so :* not specifically bequeathed] of the said testator.

(2.) Debts (*k*).

2. The debts of the testator which have been allowed are set forth in the first schedule hereto (*l*), and, with the interest thereon and costs mentioned in the said schedule, are due to the persons therein named, and amount altogether to £——. [No other person has come in and proved any debt against the estate of the testator ; and the time fixed by advertisement (*m*) for that purpose has expired.

Interest thereon.

The interest on such debts is computed down to the date of this certificate, and after the rate of £4 per cent. per annum, from the ——, 188—, the date of the said judgment [*or*, order] : unless otherwise specified in the said schedule (*mm*).]

Or, if the estate is insolvent, say : The assets of the testator are or may prove to be insufficient for the payment in full of his debts and liabilities : I have therefore computed interest down to the date of the said judgment [*or*, order] on the debts comprised in the first part of the said schedule, being such only of the said debts as

(*g*) See Form 1232.
(*h*) See R. S. C. Ord. LV. 68 ; and note (*a*), *supra*.
(*i*) *Ibid.* (*j*) See Form 1238.
(*k*) See Forms 1170—1193. For the Court Fees payable in taking an account of debts, see note (*k*) to Form 1193.
(*l*) See Form 1193. (*m*) See Form 1170.
(*mm*) These clauses between brackets are omitted from R. S. C. App. L. No. 10, but are used in practice.

by law carry interest, from the respective times in the said first part mentioned, and at the rate of £5 per cent. per annum (less income tax), unless otherwise specified therein (*n*).

Or, if no debts: There is not any debt of the said testator remaining unpaid. No person has come in and proved any debt against the estate of the said testator, and the time fixed by advertisement for that purpose has expired. No debts.

Advertisements have been published in the "London Gazette" of the ——, 188—; in the (*State in what other newspapers, and of what dates*). Advertisements for creditors (*o*).

3. The funeral expenses of the testator, amounting to the sum of £——, have been paid, and are allowed in the said account of personal estate. (3.) Funeral expenses (*p*).

4. The legacies given by the testator: other than annuities: are set forth in the first part (*r*) of the second schedule hereto; and, with the interest therein mentioned, remain due to the persons therein named, and amount altogether to £——. The annuities given by the testator, with the arrears due thereon, are set forth in the second part (*s*) of the said second schedule. Such arrears amount to £——. (4.) Legacies and annuities (*q*).

The interest on such legacies is computed down to the date of this certificate, and after the rate of £4 per cent. per annum from the ——, 188—, the end of one year after the testator's death: unless otherwise specified in the said schedule. Interest on legacies (*t*).

The arrears of the said annuities are computed down to the date of this certificate, and from the testator's death: unless otherwise specified in the said schedule. Arrears of annuities (*u*).

5. The personal estate of the testator [*If so:* not specifically bequeathed] outstanding or undisposed of, consists of the particulars set forth in the third schedule hereto (*w*). (5.) Outstanding estate (*v*).

6. The real estate which the testator was seised of, or entitled to, at (6.) Real estate (*x*).

(*n*) See Dan. Pr. 1033; 38 & 39 Vict. c. 77, s. 10. This applies only in the case of such persons whose estates are being administered, as have died insolvent after 1st of November, 1875.

(*o*) See Form 1170.

(*p*) See Form 1231 (2). (*q*) See Forms 1196, 1197. (*r*) See Form 1196.

(*s*) See Form 1197. (*t*) See Form 1196, note (*q*).

(*u*) See Form 1197, note (*r*). (*v*) See Forms 1231 (4), 1234, 1235.

(*w*) See Form 1231, Sched. 2. A fee of 1*s.* is payable for every 100*l.*, or portion of 100*l.*, of the amount or value, on proceedings pursuant to an order in any cause or matter where the amount of the outstanding or undisposed of estate of a deceased person, or of the estate subject to any trust or partnership, shall be ascertained for the purpose of being dealt with therein, without deducting any payment to creditors or parties interested after the commencement thereof: Ord. as to S. C. Fees, 1884, Sched. No. 71; and see *Ibid.*, pp. 12, 13. The stamps for the fee may be impressed or adhesive: Ord. as to Fees, &c., July, 1884, p. 9.

(*x*) See Forms 1231 (5), 1236.

the time of his death [*or as may be*] consists of the particulars set forth in the fourth schedule hereto (*y*).

(7.) Incumbrances on real estate (*z*).

7. The incumbrances affecting the said testator's real estate are set forth in the fifth schedule hereto (*a*).

(8.) Rents and profits account (*b*).

8. The defendant P. R., one of the trustees named in the said judgment [*or*, order], has received rents and profits of the testator's real estate to the amount of £—— ; and he has paid, or is entitled to be allowed on account thereof, sums to the amount of £—— : leaving a balance due from him of £—— on that account.

The particulars of the above receipts and payments appear in the account marked B. (*c*), verified (*&c.: Continue as in clause* (1) *above in so far as applicable*).

No rents and profits received (*d*).

The defendant V. D., the other trustee named in the said judgment [*or*, order], has not, either alone or jointly with the defendant P. R., nor has nor have any other person or persons by the order, or for the use, of the said defendants jointly, or of the defendant V. D. separately, received any sum or sums of money on account of the rents and profits of the testator's real estate.

Statement of the evidence produced on each account and inquiry.

(*After each statement, the evidence produced should be stated; as follows:*) The evidence produced on this account [*or*, inquiry] consists of (*State what; as thus:* the probate of the testator's will; the affidavit of A. B., filed ——, 188— ; and paragraph 16 of the affidavit of C. D., filed ——, 188—).

Dated this —— day of ——, 188— (*e*).

R. M., Chief Clerk.

The first schedule above referred to.

(*Insert particulars of debts allowed: see* Form 1193.)

The second schedule above referred to.

(*Insert particulars of legacies and annuities: see* Forms 1196, 1197.)

The third schedule above referred to.

(*Insert particulars of the outstanding estate: see* Form 1231, *and 2nd schedule thereto.*)

The fourth schedule above referred to.

(*Insert particulars of the real estate: see* Form 1231, and *3rd schedule thereto.*)

(*y*) See Form 1231, Sched. 3.
(*z*) See Forms 1231 (6), 1236.
(*a*) See Form 1231, Sched. 4.
(*b*) See Forms 1231 (7), 1234, 1236.
(*c*) See Form 1233.
(*d*) See Forms 1237, 1238.
(*e*) See R. S. C. Ord. LV. 67 ; and note (*a*), at p. 600. A fee of 10*s.* is payable on a certificate of a Chief Clerk : see Ord. as to S. C. Fees, 1884, Sched. No. 81. For the other fees payable on making the certificate, see *Ibid.*, Nos. 69—76 ; and see pp. 12—14. The stamps for the fees may be impressed or adhesive : Ord. as to Fees, &c., July, 1884, p. 9.

The fifth schedule above referred to.

(*Insert particulars of the incumbrances affecting the real estate: see* Form 1231, *and 4th schedule thereto.*)

1411. Summons to settle the draft of the certificate. [Dan. Pr. 1144.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be: see* Form 1159], to settle the draft of the Chief Clerk's certificate, under the judgment [*or*, order] dated the —— day of ——, 188—.

1412. Notice of appointment to settle the draft certificate. [Dan. Pr. 1144.]

Formal parts: see Form 37.

Take notice, that the Chief Clerk of his lordship Mr. Justice ——, has appointed (Monday), the —— day of ——, 188—, at —— of the clock in the ——noon, at his Chambers in the Royal Courts of Justice, to settle the draft of the said Chief Clerk's certificate under the judgment [*or*, order] dated the —— day of ——, 188—.

1413. Statement of objections to certificate (*f*). [Dan. Pr. 1148, note (*a*).]

(*Title and reference to the record.*)

The following is a statement of the objections of the plaintiff [*or as may be*] to the draft of the certificate under the judgment [*or*, order] dated the —— day of ——, 188—.

1. That, *&c.*
2. That, *&c.*

Dated —— day of ——, 188—.

1414. Notice of appointment to consider objections (*g*).

(*Same as* No. 1412, *substituting* to consider the objections to, *for* to settle.)

1415. Summons to vary certificate (*h*). [Dan. Pr. 1148.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be: see* Form 1159], that the certificate of my Chief Clerk dated the —— day of ——, 188—, of the result of the proceedings under the judgment [*or*, order] dated the —— day of ——, 188—, may be discharged or varied as follows; namely: (*State how; as thus:*

by disallowing the debt, interest, and costs, amounting together to £——, thereby certified to be due to D. E.);

(*f*) In Mr. Justice Chitty's Chambers, a party who is dissatisfied with the certificate and intends to apply to vary it, must, before it is signed, carry into Chambers a short statement in writing of his objections thereto, and obtain an appointment to consider the same.

(*g*) See R. S. C. Ord. LV. 69. *Quære*, if a summons to take the Judge's opinion is necessary according to the present practice. For Form of such summons see Dan. Forms, 3rd ed., No. 1242.

(*h*) See 1 Seton, 68. For forms of order, see 1 Seton, 40, 41, Nos. 1, 2, 3; 67, Nos. 1, 2, 4, 5. As to the time within which the application must be made, see R. S. C. Ord. LV. 70, 71; and note (*a*), at p. 600. An actual physical alteration will not be made in the certificate by striking out the parts in respect of which a variation is directed by the order: *Fox* v. *Bearblock*, W. N. (1882), 9: 30 W. R. 342.

and that such consequential directions may be given, or corrections and alterations made in the said certificate, as may be necessary.

1416.

Note of adjournment of the summons to vary, to come on in Court. [Dan. Pr. 1150.]

Formal parts: see Form 1306.

The summons to vary the certificate in this action [*or*, matter] is adjourned into Court; and is to be set down in the cause book: to come on at the same time as this action [*or*, matter] is to be heard on further consideration.

Or, and is to come on at the same time as the petition of the plaintiff presented on the —— day of ——, 188—, in this action [*or*, matter] comes on for further hearing [*or as may be*].

1417.

Notice of such summons having been set down to come on with the action on further consideration. [Dan. Pr. 1150.]

Formal parts: see Form 37.

Take notice that the summons dated the —— day of ——, 188—, taken out on behalf of the plaintiff [*or as may be*], to vary the Chief Clerk's certificate dated the —— day of ——, 188—, and which was adjourned into Court, has been this day set down in the cause book: to come on at the same time as this action [*or*, matter] is to be heard on further consideration.

1418.

The like, to come on with an adjourned petition. [Dan. Pr. 1150.]

Proceed as Form 1417, *to* Court; *and add:*

has been this day set down in the Registrar's paper of adjourned petitions: to come on at the same time as the petition of the plaintiff [*or as may be*], presented on the —— day of ——, 188—, in this action [*or*, matter] comes on for further hearing.

1419.

Notice of motion to vary certificate (*i*). [Dan. Pr. 1150.]

Formal parts: see Form 38.

on the part of the plaintiff [*or as may be; see* Form 1159], that the certificate of the Chief Clerk dated the —— day of ——, 188— (*Continue as in* Form 1415, *to the end*).

1420.

Direction to file copy certificate, in place of original, where original lost (*j*).

I certify that this is a true copy of a certificate which was duly stamped and signed.

R. M., Chief Clerk.

Let this be put on the files of the Court as of the ——, 188— (*Date when original certificate due*).

(*Signature of Judge.*)

——, 188—.

(*i*) See 1 Seton, 69. For orders in like case, see 1 Seton, 40, No. 1; 67, Nos. 3, 4, 5. As to the time within which the motion should be made, see R. S. C. Ord. LV. 70, 71; and note (*a*), at p. 600. For cases in which the discretion conferred by r. 71 has been exercised, see *In re Martin, Dier* v. *Martin*, W. N. (1884), 112; *Bousfield* v. *Dove*, 27 Ch. D. 687: 33 W. R. 192.

(*j*) *Re Perkins, Perkins* v. *Perkins*, M.R., at Chambers, 26 July, 1870. The certificate and fiat were written in the margin of the first page of the copy certificate.

CHAPTER XVIII.

HEARING ON FURTHER CONSIDERATION (*a*).

(*Dan. Pr.*, pp. 1154—1166, cccxciv.)

(*a*) *Further Consideration.—Summary of Material Provisions of R. S. C.* 1883.

ORDER.

Setting down on further consideration.—When any cause or matter has been adjourned for further consideration, it may, after the expiration of *eight days*, and within *fourteen days* from filing of the Chief Clerk's certificate, be set down, on the written request of the solicitor or party having conduct of the proceedings, and *after such* time on the written request of the solicitor for the plaintiff or for any other party. In either case the judgment or order adjourning further consideration, or an office copy thereof, and an office copy of the Chief Clerk's certificate, or a memorandum of the date of filing indorsed on the request by the proper officer, must be produced. The cause or matter when set down must not be put into the paper until after the expiration of *ten days* from the day on which it was set down. Notice must be given to the other parties at least *six days* before the day for which the cause may be marked for further consideration . . . . . XXXVI. 21.

Hearing in chambers.—Applications for orders on the further consideration of any cause or matter, where the order to be made is (*a*) for the distribution of an insolvent estate, *or* (*b*) for the distribution of the estate of an intestate, *or* (*c*) for the distribution of a fund amongst creditors or debenture holders, are to be heard in Chambers . . . . . LV. 2 (16).

Further consideration of matters originating in Chambers.—After expiration of *eight* days, and within *fourteen* days from the filing of the certificate, a matter originating in Chambers (where it has been adjourned for further consideration in Chambers), may be brought on for hearing by summons in the prescribed form issued by the party having conduct, or after the expiration of the *fourteen days* by any other party. Such summons must be served *six clear days* before the return . . ,, 72.

As to further consideration generally, see 1 Seton, 41—43. For forms of directions adjourning further consideration, *Ibid.*, 71.

1421. Request that action commenced by writ may be set down for further consideration (*b*). [Dan. Pr. 1155.]

(*Short title and reference to the record.*)

I request that this action, the further consideration whereof was ad-

(*b*) See R. S. C. Ord. XXXVI. 21; App. L., No. 26; and note (*a*), *supra*. As to setting down, see 1 Seton, 41, 42. On setting down a cause or matter for hearing on further consideration, a fee of 2*l.* is payable: by a stamp impressed on the request, whether on summons adjourned from Chambers or otherwise, where no fee was paid on the original hearing: Ord. as to S. C. Fees, 1884, Sched. No. 52; Ord. as to Fees, &c., July, 1884, p. 8. On drawing up and entering the order, a fee of 1*l.* is payable: by a stamp impressed on the order: Ord. as to S. C. Fees, 1884, Sched. No. 57; Ord. as to Fees, &c., July, 1884, p. 9. For forms of order, see 1 Seton, 40, 41, Nos. 1, 2, 3.

journed by the judgment [*or*, order] of the —— day of ——, 188—, may be set down for further consideration before Mr. Justice ——.

Dated this —— day of ——, 188—.

C. D., Plaintiff's [*or*, Defendant's] Solicitor.

1422.

Consent of all parties to the action being set down prematurely. [Dan. Pr. 1155, note (*k*).]

(*Short title and reference to the record.*)

We request and consent that this action, the further consideration whereof was adjourned by the judgment [*or*, order] of the —— day of ——, 188—, be set down forthwith for further consideration before his lordship Mr. Justice ——, notwithstanding eight days have not expired since the Chief Clerk's certificate was filed.

If so: and that this action may be placed in the paper of short causes for hearing before the said Judge on the next short-cause day [*or*, on the —— day of ——, 188—].

Dated —— day of ——, 188—.

O. P., solicitor for the plaintiff,
Q. R., solicitor for the defendant C. D.
S. T., solicitor for the other defendants.

1423.

Notice that the action has been set down (*c*). [Dan. Pr. 1156.]

Formal parts: see Form 37.

Take notice that this cause, the further consideration whereof was adjourned by the judgment [*or*, order] of the —— day of ——, 188—, was this day [*or*, on the —— day of ——, 188—,] set down for further consideration before Mr. Justice ——, for the —— day of ——, 188—.

1424.

Certificate of counsel that action is fit to be heard as short. [Dan. Pr. 1156.]

(*Short title and reference to the record.*)

I certify that this action is fit to be heard on further consideration as a short cause.

X. Y., Counsel for the Plaintiff,
——, 188—.

1425.

Notice that action has been marked as short. [Dan. Pr. 1156.]

Formal parts: see Form 37.

Take notice that this action has been marked for hearing on further consideration as a short cause in the Registrar's book of causes standing for hearing.

1426.

Consent to action being prematurely heard. [Dan. Pr. 1155.]

(*Short title and reference to the record.*)

We consent to this action being placed in the paper of short actions for hearing on further consideration before Mr. Justice ——, on the —— day of ——, 188—. Dated (*&c.: Conclude as in* Form 1422.)

(*c*) See R. S. C. Ord. XXXVI. 21; App. L., No. 27; and note (*a*), *supra*.

1427.
Summons for further consideration of a matter originating in Chambers (*d*). [Dan. Pr. 1157.]

Formal parts: see Form 43 *or* 1077.
on the part of the plaintiff [*or*, defendant A. B.—*or as may be; see* Form 1159], that this matter, the further consideration whereof was adjourned by the order of the —— day of ——, 188—, may be further considered.

1428
Consent to summons being issued, and made returnable, prematurely. [Dan. Pr. 1156, note (*x*).]

(*Short title and reference to the record.*)
We consent to a summons for the further consideration of this cause being issued and made returnable forthwith [*or as may be*].
Dated this —— day of ——, 188—.
G. H., solicitor for the defendant E. F.
L. & O., solicitors for the remaining defendants.

1429.
Note of adjournment into Court of the hearing on further consideration. [Dan. Pr. 1157.]

Mr. Justice —— at Chambers.
(*Short title.*)
The further consideration of this matter and cause is adjourned into Court: to be set down in the cause book after the causes already set down for further consideration.
If for a special day, add: and to be put into the paper for further consideration on —— the —— day of ——, 188—.
Dated this —— day of ——, 188—.
R. M., Chief Clerk.
N.B.—Notice hereof is to be given to the solicitors for all parties in the cause.

1430.
Notice that cause so adjourned has been set down in the Registrars' book (*e*). [Dan. Pr. 1157.]

Formal parts: see Form 37.
Take notice that this cause has been set down for further consideration—*If so:* as a short cause—before Mr. Justice ——, in the Registrars' book of causes standing for hearing.

1431.
Brief on further consideration (*f*). [Dan. Pr. 1158 note (*i*).]

(1.) In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
(*Full title and reference to the record.*)
Brief on further consideration, for the plaintiff [*or*, defendant A. B. —*or as may be*].

(1.) Contents.

(*d*) See R. S. C. Ord. LV. 72; and note (*a*), *supra*. There must be at least *six* clear days between the date of service and the date of the return. For forms of order, see 1 Seton, 41, Nos. 2, 3. As to the cases in which an order on further consideration can be made in Chambers, see R. S. C. Ord. LV. 2 (16); and note (*a*), *supra*.

(*e*) As to the papers to be left for the Judge, see Dan. Pr. 1157.

(*f*) The brief should be accompanied by the brief and other papers held by counsel at the former hearing.

——, 188— (*g*). By the judgment [*or*, order] of this date, made on the trial of this action, it was adjudged [*or*, ordered] that (*Set out, in the past tense, the whole of the judgment or order made at the former hearing, except the title and recital of the evidence: introducing each separate declaration or direction by a new line* (*h*)).

——, 188— (*g*). By the certificate of R. M., esquire, the Chief Clerk of Mr. Justice ——, of this date, and filed on the —— day of ——, 188—, he certified that, in pursuance of the said judgment (*Set out, in the past tense, the certificate* (*i*): *introducing by a new line each separate finding; and placing in the margin the numbers of the directions answered* (*j*).

Observations.

(*Set out such observations as may be deemed advisable.*)

(2.) Indorsements.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
Brown
v.
Dobinson,
188—. B. No.

Brief
on the hearing on further consideration.

For (*Continue as in* Form 832).

1432.

Summons for an order on further consideration of an action for administration, where the estate is insolvent (*k*). [Dan. Pr. 1155, cccxciv.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff that this action, the further consideration whereof was adjourned by the judgment [*or*, order] dated the —— day of ——, 188—, may be heard on further consideration, and that an order may be made in the terms of the accompanying minutes.

(*g*) The dates of the documents briefed should be placed in the margin.

(*h*) Any intermediate orders to carry on proceedings, or otherwise, or certificates of the Chief Clerk, material to the further consideration, should here follow: each such order or certificate being introduced by a new line.

(*i*) The statements in the certificate of the evidence produced on the various accounts and inquiries are usually omitted in the brief in cases where nothing is likely to turn thereon at the hearing.

(*j*) No part of the schedules to the certificate, or of any account filed therewith, should be set out in the brief, unless the special circumstances of the case may render the same necessary. If any affidavits, material to the further consideration, have been filed since the certificate, they should be briefed and follow the certificate.

(*k*) See R. S. C. Ord. LV. 2 (16); and note (*a*), *supra*.

1433.
Minutes of proposed order to be made on summons 1432 (*l*).

Mr. Justice ——
at Chambers. } (*Date.*)

(*Title and reference to the record.*)

(*Enter the appearances of the counsel or solicitors.*)

Read:—Judgment [*or*, order] dated the ——, 188—, the Chief Clerk's certificate dated the ——, 188—, the order dated the ——, 188—, and the certificate of fund.

Let E. F., the receiver appointed by the said order dated the ——, 188—, be discharged.

Let the said E. F. forthwith leave at the chambers of the Judge his final account as such receiver, and let him within such time as shall be fixed by the Chief Clerk's certificate of the allowance of such account make the payment into Court directed to be made by him as in the schedule hereto.

Let, upon such payment being made, the recognizance dated the ——, 188—, entered into by the said E. F. with G. H. and L. M., his sureties, be vacated.

Let the defendant J. W. on or before the ——, 188—, or subsequently within seven days after service of this order, make the payment into Court directed to be made by him as in the schedule hereto.

Let the defendants R. J. and E. B. within the like period make the lodgments directed to be made by them as in the schedule hereto other than the payment in of dividends therein mentioned, and let them within seven days after the receipt of such dividends pay the same as directed by the said schedule.

Let the funds to be so respectively lodged and the funds in Court to the credit of this action be dealt with as directed in the schedule hereto.

Refer it to the taxing master to tax the costs of the plaintiff and defendants R. J. and E. B. of this action as between solicitor and client, including in the costs of the defendants any charges and expenses properly incurred by them as executors of the testator's will beyond their costs of this action.

And Let the residue of the funds in Court, after payment of such costs, be apportioned among the creditors named in the said Chief Clerk's certificate in proportion to the amounts thereby certified to be due to them, and let the amounts so apportioned and the names of the persons to whom such amounts are payable be certified (*m*).

Liberty to apply in Chambers.

(*l*) This Form is framed from a form of order illustrating the effect of the S. C. Funds Rules, 1884, prepared in the Registrars' Office.

(*m*) It was formerly the practice to make sums under 10*l.* payable to the solicitor on his undertaking to pay them to the parties entitled; but it seems that such a provision is now unnecessary: see S. C. Funds Rules, 1884, r. 48.

Lodgment and Payment Schedule.

In the High Court of Justice,
Chancery Division.
(*Short title and reference to the record.*)

(*Date.*)

Ledger credit—As above.

I.—Lodgment.

Particulars of funds to be lodged.	Person to make the lodgment.	Amounts. Money. £	s.	d.	Securities. £	s.	d.
Balance certified to be due to testator's estate.	J. W., defendant.	435	0	0			
Balance to be certified to be due from receiver on his final account.	E. F., the receiver						
Consolidated £3 per cent. annuities.	R. J. and E. B., defendants.				3,000	0	0
Balance due from executors	The same	334	2	6			
Dividends payable to executors on consols before or after transfer.	The same.						

II.—Payment.

Funds. { £8,000 Consolidated £3 per centum annuities.
£400 Money on deposit.
£300 Cash already in Court.
Funds to be lodged in Court as above.

Particulars of payments transfers or other operations.	Payees transferees or separate accounts.	Amounts. Money. £	s.	d.	Securities. £	s.	d.
Pay unpaid funeral expenses.	H. T., as a creditor	15	0	0			
Sell consols					11,000	0	0
Out of proceeds and balance of cash and interest pay costs of plaintiff and defendants R. J. and E. B. to be taxed under this order.							
Pay sums to be apportioned to creditors by chief clerk's certificate to the persons to whom they shall be certified to be payable.							

CHAPTER XIX.

COSTS.

(*Dan. Pr.*, pp. 1167—1267, cccxciv.—cccxcviii.)

Section I.—Costs in General (*a*).

(*Dan. Pr.*, pp. 1167—1174, cccxciv.—cccxcv.)

(*a*) *Costs in general.*—See 1 Seton, 124—131; Morgan & Wurtzburg, 93—149. Costs in general are in the discretion of the Court, subject (1) to the right of a trustee, mortgagee, &c., to receive his costs out of the estate (*Farrow* v. *Austin*, 18 Ch. D. 58: 30 W. R. 50; *Turner* v. *Hancock*, 20 Ch. D. 303: 30 W. R. 480; *In re Knight's Trusts*, 26 Ch. D. 82: 32 W. R. 417); and (2), where any action or issue is tried by a jury, the costs are to follow the event, unless for good cause the Judge or Court otherwise order; and (3), when issues in fact and law are raised upon a claim or counterclaim, the costs of the several issues respectively are to follow the event (*Waring* v. *Pearman*, 32 W. R. 429; *Pearson* v. *Ripley*, 32 W. R. 463; *Jones* v. *Curling*, 13 Q. B. D. 262: 32 W. R. 651; *Gath* v. *Howarth*, W. N. (1884), 99); and (4), if an action is ordered to be tried in the County Court, the costs are to follow the event, unless the question of costs is referred by the Judge of the County Court to a Judge of the High Court (*Emeny* v. *Sandes*, 14 Q. B. D. 6: 33 W. R. 187); and (5), in actions founded on contracts where not more than £50 is recovered, the plaintiff is only entitled to such costs as he would recover in the County Court (*Bye* v. *Kirby*, *&c.*, W. N. (1883), 195; *Langley* v. *Sugden*, W. N. (1883), 198; *Mendelsohn* v. *Hoppe*, W. N. (1884), 31; *Copley* v. *Jackson*, W. N. (1884), 94; *La Fargue* v. *Stead*, 28 Sol. J. 547; *Saywood* v. *Cross*, 14 Q. B. D. 53). Where the plaintiff recovers less than £20 he will not, as a rule, be allowed any costs (*Calvert* v. *Davison*, W. N. (1884), 18; *Oppenheimer* v. *Davenport*, W. N. (1884), 57). See R. S. C. Ord. LXV. 1, 2, 4, 12; Wilson, 525—530, 535; Ann. Pr. 580—588, 592; Morgan, 539—544.

Costs of interlocutory proceedings, where costs in the action.—See R. S. C. Ord. LXV. 23, 27 (31); Dan. Pr. 1171—1173; 1 Seton, 58; Ann. Pr. 597.

Section II.—Costs from one Party to Another (*b*).

(*Dan. Pr.*, pp. 1175—1205, cccxcv.)

(*b*) *Apportionment of Costs.*—See Dan. Pr. 1200—1202; 1 Seton, 129, 130; Morgan & Wurtzburg, 128—132; Ann. Pr. 585; *Re Brown*, *Ward* v. *Morse*, 23 Ch. D. 377: 31 W. R. 936; *Robinson* v. *Drakes*, 23 Ch. D. 98: 31 W. R. 871; *In re Griffiths*, *Griffiths* v. *Lewis*, 26 Ch. D. 465. For forms of order, see 1 Seton, 117, No. 16: 118, Nos. 17, 18, 19.

Set-off of costs.—R. S. C. Ord. LXV. 14, 27 (21), (31), (32); see Dan. Pr. 1202, 1203; 1 Seton, 129, 130; Morgan & Wurtzburg, 132—134. For forms of orders, see 1 Seton, 117, No. 16: 118, No. 18: 119, Nos. 21, 22.

Direction to pay costs, without prejudice how ultimately to be borne.—See Dan. Pr. 1204, 1233; 1 Seton, 117. For form of order, see 1 Seton, 116, No. 11.

Costs: to whom made payable.—See Dan. Pr. 1204, 1205; 1 Seton, 121; Morgan & Wurtzburg, 124—128. For forms of order, see 1 Seton, 121, 122, Nos. 1—4.

Section III.—Costs out of the Fund (*c*).

(*Dan. Pr.*, pp. 1206—1233, cccxcvi.)

(*c*) *Taxation and payment of costs out of fund.*—For forms of order, see 1 Seton, 121—123, Nos. 1—9.

Costs of trustees, &c.—See Dan. Pr. 1206—1221; Lewin on Trusts, 844—852; Morgan & Wurtzburg, 396—416; Ann. Pr. 582, 583.

Costs in administration actions, where fund insufficient.—See Dan. Pr. 1220—1223; 2 Seton, 845, 846, 875, 876; Morgan & Wurtzburg, 200—204. For forms of orders, see 1 Seton, 122, No. 5; 2 Seton, 839, No. 6: 840, Nos. 7, 8: 841, Nos. 10, 13; *In re Harvey*, *Wright* v. *Woods*, 26 Ch. D. 179: 32 W. R. 765; *Dodds* v. *Take*, 25 Ch. D. 617: 32 W. R. 424; *Wilkins* v. *Rotherham*, 27 Ch. D. 703: 33 W. R. 402.

The like, where fund sufficient.—See Dan. Pr. 1223—1231; 2 Seton, 876—879; Morgan & Wurtzburg, 165—200.

Apportionment of costs between different funds.—See Dan. Pr. 1231, 1232; 2 Seton, 877; Morgan & Wurtzburg, 174—176. For forms of orders, see 1 Seton, 123, No. 9: 555, No. 14: 585, No. 5.

Section IV.—The Principles of Taxation (*d*).

(*Dan. Pr.*, pp. 1233—1245, cccxcvi.)

(*d*) *Taxation as between party and party.*—See R. S. C. Ord. LXV. 22, 27 (29), (44); Dan. Pr. 1234, 1242; 1 Seton, 124, 126; Morgan & Wurtzburg, 4, 483.

Taxation as between solicitor and client.—See Dan. Pr. 1235—1241; 1 Seton, 124, 126; Morgan & Wurtzburg, 4. For forms of bills of costs, *ibid.*, 663—683. For forms of orders, see 1 Seton, 119, No. 23: 123, No. 8. For forms of orders in charity cases, see 1 Seton, 554, Nos. 11, 12: 555, Nos. 15, 16. As to costs of actions relating to charities, see Morgan & Wurtzburg, 204—213.

Costs, charges, and expenses.—See Dan. Pr. 1241, 1242; 1 Seton, 481—484; Morgan & Wurtzburg, 398—405. For forms of bills of costs, *ibid.*, 683—722. For forms of order, see 1 Seton, 481. For forms of order in a charity suit, see 1 Seton, 554, Nos. 11, 12: 555, Nos. 15, 16. For form of order, where purchaser under an order of the Court is discharged, see 2 Seton, 1410, No. 1; and see Morgan & Wurtzburg, 380, 381.

Discretionary allowances.—See Dan. Pr. 1242—1244, and notes thereto; 1 Seton, 627—632; Morgan & Wurtzburg, 482—503; R. S. C. Ord. LXV. 27 (1), (3), (4), (9), (10), (11), (12), (15), (24), (36), (38), (45), (46).

Section V.—Method of Taxation (*e*).

(*Dan. Pr.*, pp. 1246—1261, cccxcvi.—cccxcviii.)

(*e*) *Taxation of Costs in the Chancery Division.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Scales of taxation.—Costs will be allowed on the lower scale, except where on special grounds an order is made for allowance on the higher scale, or where the Taxing Master, under directions given him by the Court or a Judge, thinks such allowance ought upon such special grounds to be made. Upon a taxation as between a solicitor and his client the Taxing Master may on special grounds allow costs on the higher scale . . .	LXV. 8—10.

(See Dan. Pr. 1248—1251, cccxcvi., cccxcvii.; *In re Spettigue's Trusts*, W. N. (1884), 6: 32 W. R. 385; *In re Chaytor's Settled Estates Act*, 25 Ch. D. 651: 32 W. R. 517; *Hudson* v. *Osgerby*, W. N. (1884), 83: 32 W. R. 566; *Edgington* v. *Fitzmaurice*, 32 W. R. 848.)

ORDER.

Indorsement on bills of costs.—Every bill of costs left for taxation must be indorsed with the name and address of the solicitor leaving the same, and of his principal, if he is an agent . LXV. 27 (58).

Reference to Taxing Master.—Reference must be made to the Taxing Master in rotation; where there has been any former taxation, the reference must be to the same Master . . . ,, 18.

Notice of taxing.—One day's notice of taxing must be given in all cases where notice to tax is necessary; but notice is not necessary where the defendant has not appeared in person, or by his solicitor or guardian . . . . . ,, 16, 17.

Transmission of books, &c., by Chief Clerk to Taxing Master.—Where required for the purposes of taxation the Chief Clerk will transmit to the Taxing Master all necessary books, papers, and documents in Chambers relating to the cause or matter . ,, 20, 21.

Attendance of parties on taxation.—The Taxing Master must direct what parties are to attend on the taxation, and disallow the costs of unnecessary parties . . . . . ,, 27 (27).

Refusal or neglect to procure taxation.—In such case the Taxing Master may certify the costs of the other parties, and the refusal or neglect of the party in default, *or* may allow a nominal or other sum to such party . . . . . ,, ,, (28).

Taxation where action, &c., dismissed with costs.—Where an action or petition is dismissed with costs, or a motion is refused with costs, or any costs are by any general or special order directed to be paid, such costs may be taxed without any order referring the same for taxation . . . . . ,, ,, (33).

Taxation in case the parties differ.—The costs must be brought into the taxing office by the party claiming the same, and notice given to the other party: who may inspect the bill within *eight days* after such notice, without fee; at expiration of such eight days, he must either agree to pay the costs, or signify his dissent therefrom, with liberty to tender a sum of money for the costs. Where the tender exceeds the sum allowed on taxation, the costs of taxation must be borne by the party claiming the costs . . . . . ,, ,, (34).

Where costs payable out of a fund in Court.—In such case the Taxing Master's certificate must state the total amount of all such costs, without any direction for that purpose in the order. ,, ,, (35).

The Taxing Master may require the solicitor to deliver or send to his client, free of charge, a copy of the bill of costs, accompanied by any statement the Master may direct, and by a letter informing the client that the bill has been referred to the Taxing Master (giving his name and address), for taxation, and will be proceeded with at the time appointed for the purpose . . . . . ,, ,, (56).

Delay before Taxing Master.—Where any party is guilty of neglect or delay in proceedings before the Taxing Master, or puts any other party to any unnecessary expense, the Master may direct such party or his solicitor to pay such costs as he may think proper . . . . . ,, ,, (55).

Power of Taxing Master to limit or extend time.—The Taxing Master may limit or extend the time for any proceeding before him, and where, by any order a time is appointed for any proceeding before a Taxing Master, he may extend such time without any certificate or order for the purpose . . . ,, ,, (57).

Special allowances to be made by Taxing Master.—Preparation of pleadings, &c.* (1, 2); instructions to sue or defend (3); swear-

(*) These numbers refer to the corresponding numbers of the sub-rules of R. S. C. Ord. LXV. 27.

ORDER.

ing affidavits (4); instructions for and drawing special affidavits (5); delivery of pleadings, services, notices, perusals, separate pleadings, &c., where the same solicitor appears for more than one party (6, 7, 8); evidence (9) (see, as to costs of witnesses present at the trial though not called, *Levetus* v. *Newton*, 28 Sol. J. 166; as to costs of keeping a witness abroad, see *Picasso* v. *Trustees of Maryport Harbour*, W. N. (1884), 85); agency correspondence (10); attendance upon registrars (11); attendance at Chambers (12, 13); fees to counsel for settling pleadings, &c. (15) (and see R. S. C. Ord. LXV. 22, as to the costs of having drafts settled by private counsel, where there is a reference to the conveyancing counsel); counsel at Chambers (16) (see *In re Chapman*, 10 Q. B. D. 54: 31 W. R. 266); inspection of documents (17); copies of documents (18); improper, vexatious, unnecessary, or prolix pleadings, &c. (20, 21) (see 1 Seton, 120); unnecessary appearance in Court or Chambers (23); applications to extend time (24); costs between party and party (29); amendment of plaintiff's pleadings (31, 32); fees of conveyancing counsel and special referees (36); proceedings in District Registry (43); retaining fee to counsel (44); fees for conferences (45); retaining more than one counsel (46, 47); refresher fees (48); briefs prematurely delivered (49); costs of abortive setting down for trial of a cause or matter (50); fees to clerks of counsel (51); vouchers for fees of counsel (52) LXV. 27.

(See further, Dan. Pr. 1242—1246, and notes thereto; 1 Seton, 627—632; Morgan & Wurtzburg, 482—503).

Review of Taxation.—Objections in writing must be carried into the taxing-office by the party dissatisfied, and delivered to the other side, showing concisely the items objected to, and the grounds of objection . . . . . ,, ,, (39).

Thereupon the Taxing Master must reconsider and review his taxation, and if required, state in his certificate, or by reference to the objections, the grounds of his decision, and any special circumstances . . . . . ,, ,, (40).

A party dissatisfied with the certificate may, within *fourteen days* from the date thereof, apply for an order to review the taxation as to any item which may have been objected; as to the rest the certificate is final . . . . . ,, ,, (41).

As to proceedings on taxation generally, see Morgan & Wurtzburg, 467—482. For forms of directions in orders for taxation, see 1 Seton, 115—121. As a rule, in Chancery actions, costs will not be ordered to be taxed in the District Registry: *Day* v. *Whittaker*, 6 Ch. D. 734; *In re Wilson*, *Wilson* v. *Alltree*, 27 Ch. D. 242: 32 W. R. 897. As to the duties, powers, and authorities of the Taxing Master, see Dan. Pr. 1246, 1247; R. S. C. Ord. LXV. 19, 27 (25, 26).

1434

Headings o bills of cost (*f*).

[Dan. Pr. 1251.]

(*Title and reference to the record.*)

The bill of costs [*If so:* and costs, charges, and expenses] of the plaintiffs:

Or, of all the defendants:

Or, of the defendants A. B., *&c.:*

Or, of C. D., and E. F., attending the proceedings—*or as may be;*

(*f*) A bill of costs for taxation should be written on foolscap paper bookwise, with a clear margin on the left hand side of each side, in order that the amounts taxed off may be there placed by the taxing officer in taxing the bill: Dan. Pr. 1251. As to indorsement of the name and address of the solicitor, on a bill of costs, see R. S. C. Ord. LXV. 27 (58); and note (*e*), *supra*. As to obtaining copies of the bill, see Dan. Pr. 1253.

to be taxed [*If so:* as between solicitor and client] under the judgment [*or*, order] dated the —— day of ——, 188—.

1435.

(*Same as* Form 1157.)

Certificate verifying copy of judgment or order (*g*). [Dan. Pr. 1252.]

1436.

(*Short title.*)

We [*or*, I] hereby certify, that this action [*or*, matter] has not been already referred to any Taxing Master.

Dated ——, 188—.

A. & B., plaintiff's solicitors [*or as may be*].

Certificate of no previous reference (*h*). [Dan. Pr. 1252.]

1437.

Mr. —— is the proper Taxing Master to whom the taxation of costs in this action [*or*, matter] is referred.

Dated ——, 188—.

X. Y., Sitting Master.

Certificate of name of Taxing Master in rotation (*i*). [Dan. Pr. 1252.]

1438.

(*Short title and reference to the record.*)

Pursuant to an order of reference, dated the —— day of ——, 188—, the plaintiff [*or as may be*] has left his bill of costs at my Chambers at the Royal Courts of Justice, to be taxed as directed by the said order.

Dated the —— day of ——, 188—.

This warrant was taken out by X. Y., solicitor for the plaintiff [*or as may be*].

Warrant on leaving a bill of costs (*j*). [Dan. Pr. 1252.]

1439.

(*Short title and reference to the record.*)

Let all parties concerned attend at my Chambers at the Royal Courts

Warrant to tax (*k*). [Dan. Pr. 1252.]

(*g*) The copy should be written on foolscap paper, bookwise; and the certificate should be written in the margin of the first page: Dan. Pr. 1252.

(*h*) This certificate should be written in the margin of the first page of the original judgment or order, and of the certified copy: Dan. Pr. 1252. As to the reference to a taxing master, see R. S. C. Ord. LXV. 18; and note (*e*), *supra*.

(*i*) The certificate is written in the margin of the first page of the original judgment or order. The name of the master in rotation is filled in by the sitting master, and the certificate is signed by him. A copy of the certificate must be added to the certified copy of the judgment or order, before it is left.

(*j*) On issuing the warrant, a fee is payable of 3*s.*: by a stamp impressed upon or adhesive to the warrant: Ord. as to S. C. Fees, 1884, Sched. No. 11; Ord. as to Fees, &c., July, 1884, p. 4.

(*k*) *Ibid.* As to proceedings on taxation, see R. S. C. Ord. LXV.; and note (*e*),

of Justice on ——, the —— day of ——, 188—, at —— of the clock in the ——noon, to tax the costs of the plaintiff [*or as may be*], as directed by an order in the above action [*or*, matter], dated the —— day of ——, 188—.

Dated this —— day of ——, 188—.

This warrant (*&c.: as in* Form 1438).

1440.

Warrant to leave or bring in costs.

(*Short title and reference to the record.*)

Pursuant to an order of reference, dated the —— day of ——, 188—, let all parties concerned attend at my Chambers, at the Royal Courts of Justice, on ——, the —— day of ——, 188—, at —— of the clock in the ——noon, to show cause why the plaintiff [*or as may be*], has not left his bill of costs at my Chambers, at the Royal Courts of Justice, to be taxed as directed by the said order.

Dated the —— day of ——, 188—.

This warrant (*&c.: as in* Form 1438).

1441.

Affidavit of service of warrant (*l*). [Dan. Pr. 1254.]

(*Short title and reference to the record.*)

On the —— day of ——, 188—, I served Mr. A. B., of (*place of business*), the solicitor in this action [*or*, matter] for the defendant C. D. [*or as may be*], with this warrant: by delivering a true copy thereof to, and leaving the same with, the said A. B., at (*State where*):

Or, with a clerk of the said A. B., at the address for service of the said A. B., situate at (*State where*), aforesaid:

and I, at the same time, produced and showed to the said A. B. [*or*, to the said clerk] this original warrant.

On the oath of (*Name, &c., of the deponent*).

(*Signature of deponent.*) { Sworn before me this —— day of ——, 188—.

(*Signature of Taxing Master.*)

---

supra. On the taxation of costs the following fees are payable: where the amount allowed does not exceed 4*l*., 2*s*.; where it exceeds 4*l*., for every 2*l*. allowed, or fraction thereof, 1*s*. These fees are to be taken on signing the certificate, or on the allowance of the bill of costs as taxed, and are to be paid by a stamp impressed on the certificate, or (if there is no certificate), impressed on or affixed to the bill of costs: Ord. as to S. C. Fees, 1884, Sched. Nos. 102, 103; Ord. as to Fees, &c., July, 1884, p. 10. Where the costs are directed to be paid out of funds in Court, the taxing master will certify the names of the solicitors respectively to whom such costs are payable, and the amount of the fees of taxation, which are payable out of such funds; and the Paymaster will carry over the amount so certified from the account to which such funds are placed, to an account in the Pay Office Books for fees of taxation: S. C. Funds Rules, 1884, r. 67.

(*l*) The affidavit is indorsed on the original warrant.

1442.

Statement of objections to the allowance or disallowance, of items in a bill of costs as taxed (*m*).

[Dan. Pr. 1260.]

(*Title and reference to the record.*)

Objections taken by the plaintiff [*or as may be*] to the taxation by X. Y., esquire, one of the Taxing Masters of this Court, of the bill of costs of the plaintiff [*or as may be*], under the judgment [*or*, order] dated the —— day of ——, 188—.

The plaintiff [*or as may be*] objects, for the following grounds and reasons, to the allowance [*or*, disallowance] of the following items; namely:

1. Because, *&c.*, } (*Set out the grounds and reasons, in*
2. Because, *&c.*, } *numbered paragraphs* (*n*);

And then specify by a list in a short and concise form, the item or items, or parts or part thereof, objected to.)

1443.

Warrant to proceed on the objections (*o*).

[Dan. Pr. 1260.]

(*Short title and reference to the record.*)

Let all parties concerned attend at my Chambers, at the Royal Courts of Justice, on —— the —— day of ——, 188—, at —— of the clock in the ——noon, to proceed on the objections taken by the plaintiff [*or as may be*], to the taxation of his bill of costs [*or as may be*], under the judgment [*or*, order], dated the —— day of ——, 188—.

1444.

Summons to review taxation (*p*).

[Dan. Pr. 1260.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the objections of the applicant, dated the —— day of ——, 188—, to the taxation of costs in this action [*or*, matter] under the judgment [*or*, order], dated the —— day of ——, 188—, may be allowed; and that it may be referred back to the Taxing Master to vary his certificate accordingly; and that the defendant C. D. [*or as may be*] may be ordered to pay to the applicant his costs of this application, and consequent thereupon.

(*m*) See R. S. C. LXV. 27 (39); and note (*e*), *supra*. As to the practice where Chancery items have been sent by a Master in the Queen's Bench Division to be dealt with by a taxing master in the Chancery Division, and objections are carried in to the allowance in respect of the Chancery items, see *Ross* v. *Ashwin*, W. N. (1884), 86.

(*n*) The new rule (R. S. C. Ord. LXV. 27 (39)) requires the grounds and reasons for the objections to be stated. This renders *Simmons* v. *Storer*, 14 Ch. D. 154, obsolete.

(*o*) See R. S. C. Ord. LXV. 27 (40); and note (*e*), *supra*. As to the fee payable on the warrant, see note (*j*), *supra*.

(*p*) See R. S. C. Ord. LXV. 27 (41); and note (*e*), *supra*. As to review of taxation, see Morgan & Wurtzburg, 748—750; 1 Seton, 626—632. For forms of order, see 1 Seton, 626, Nos. 1—3. In the Chambers of Chitty, J., it is the practice, on the return of the summons, to adjourn it direct into Court for argument. A person who is not a party to the making of the order for taxation, and who is dissatisfied with the taxation, ought not to apply to have the taxation reviewed, but to have the order for taxation set aside: *Charlton* v. *Charlton*, W. N. (1882), 183: 31 W. R. 237.

Section VI.—Payment of Costs, how Enforced (*q*).

(*Dan. Pr.*, pp. 1262—1267, cccxcviii.)

1445.

Præcipe for writ of *fieri facias* for costs only. [Dan. Pr. 1262.]

(*See* Form 934.)

1446.

Writ of *fieri facias* for costs only. [Dan. Pr. 1262.]

(*Same as* Form 940.)

1447.

Summons for leave to issue sequestration to enforce payment of costs. [Dan. Pr. 1262, 1263.]

(*Same as* Form 1023.)

(*q*) *Enforcing payment of costs.*—See 1 Seton, 633—635 ; 2 Seton, 1555—1558 ; Morgan & Wurtzburg, 508—542. A judgment or order for payment of costs may be enforced in the modes following, viz. :—

A. Where the costs are payable by one party to another ;

(1.) By writ of *fi. fa.* or *elegit*, and, if desired, by a separate writ of execution from that for recovery of any money payable under the judgment, &c. : R. S. C. Ord. XLII. 17, 18.

(2.) By writ of *sequestration*, by leave of the Court or a Judge : R. S. C. Ord. XLIII. 7.

(3.) In the case of a solicitor ordered to pay costs for misconduct as such, by writ of *attachment*, or *sequestration* : R. S. C. Ord. XLIV. ; 32 & 33 Vict. c. 62, s. 4 ; Ord. 7 Jan. 1870, r. 8.

(4.) *Attachment of debts.*—R. S. C. Ord. XLV. ; see *Nott* v. *Sands*, W. N. (1883), 74 ; dissenting from *Cremetti* v. *Crom*, 4 Q. B. D. 325.

(5.) *Charging orders on stock or shares.*—R. S. C. Ord. XLVI.

B. Where costs are payable out of a fund not in Court, or estate :

(1.) By a declaration of charge on the property.

(2.) By a sale.

See Dan. Pr. 1266 ; Morgan & Wurtzburg, 542 ; 1 Seton, 130. For forms of order making costs a charge, see 1 Seton, 117, No. 12 : 491, No. 2 : 825, No. 5 : 1671, No. 3*a*.

As to the costs of the official solicitor, where appointed guardian *ad litem* of an infant or person of unsound mind, see Dan. Pr. 1266 ; R. S. C. Ord. LXV. 13.

As to interest on costs, see Dan. Pr. 1261 ; 1 Seton, 131 ; Morgan & Wurtzburg, 538—540 ; Wilson, 397 ; R. S. C. Ord. XLII. 16 ; App. H., No. 1 ; *Pyman & Co.* v. *Burt*, W. N. (1884), 100 ; *Landowners' West of England and South Wales, &c., Co.* v. *Ashford*, 33 W. R. 41.

CHAPTER XX.

APPEALS.

(*Dan. Pr.*, pp. 1268—1332, cccxcviii.—cccci.)

Section I.—Appeals Generally (*a*).

(*Dan. Pr.*, pp. 1268—1282, cccxcviii.—cccxcix.)

1448.

Notice of motion to stay proceedings pending an appeal (*b*). [Dan. Pr. 1277—1281.]

Formal parts: see Form 38.

on the part of the defendant A. B. [*or as may be*], that all proceedings upon or under the judgment [*or*, order] dated the —— day of ——, 188—, made in this action may be stayed, pending the hearing of the appeal therefrom, whereof notice was served by the applicant on the —— day of ——, 188—.

Section II.—Appeals to the Court of Appeal (*c*).

(*Dan. Pr.*, pp. 1282—1313, cccxcix.—cccci.)

(*c*) *Appeals to the Court of Appeal.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Appeal to be by way of rehearing.—All appeals must be by way of rehearing; and be brought by notice of motion in a summary way. The whole or part of the judgment may be appealed from: to be stated in the notice of motion. . . .	LVIII. 1.
Service of notice of appeal.—Notice of appeal must be served	

(*a*) As to appeals from consent orders, see Dan. Pr. 1269. By persons not parties to the record, *Ibid.*, 1269, 1270; 2 Seton, 1605; Ann. Pr. 534, 535. In *formâ pauperis:* Dan. Pr. 1271. By a bankrupt, *Ibid.* As to grounds of appeal, *Ibid.* As to appeals in matters of discretion of the Judge, *Ibid.*, 1271—1273. As to appeals for costs, Sup. Cot. Jud. Act, 1873, s. 49; R. S. C. Ord. LXV. 1; Dan. Pr. 1274—1277; and, in addition to the cases there cited, see *In re Milton*, 32 W. R. 238; *Butcher* v. *Pooler*, 24 Ch. D. 273: 32 W. R. 305; *In re Knight's Trusts*, 26 Ch. D. 82: 32 W. R. 417; *In re Gilbert, Gilbert* v. *Hudlestone*, W. N. (1885), 21. As to appealing from part of an order, see Dan. Pr. 1277.

(*b*) An appeal does not operate as a stay of execution: R. S. C. Ord. LVIII. 16. An application to stay must in the first instance be made to the Court below: R. S. C. Ord. LVIII. 17. The Court of Appeal has an alternative jurisdiction to stay the proceedings, and an application to the Court of Appeal need not be made within twenty-one days from the refusal in the Court below: *Cropper* v. *Smith*, 24 Ch. D. 305: 32 W. R. 212. As to stay of proceedings pending an appeal, see 2 Seton, 1617—1619; Wilson, 499: Ann. Pr. 547, 548. For forms of orders, see 2 Seton, 1616, Nos. 12, 13; and see *Bradford* v. *Young*, 28 Ch. D. 18: 33 W. R. 159.

ORDER.

only on the parties affected by the appeal; but the Court of Appeal may direct other parties to be served; the notice of appeal may be amended as the Court of Appeal may think fit . LVIII. 2.

Length of notice.—Notice of appeal from any judgment (final or interlocutory), or from a final order, must be a *fourteen days'* notice: from an interlocutory order, a *four days'* notice . . ,, 3.

Power of Court of Appeal over the proceedings.—The Court of Appeal has all the powers and duties of the High Court as to amendment and reception of evidence. Further evidence may be given without special leave upon interlocutory applications, or in any case as to matters which occurred after the date of the decision below. Further evidence will be admitted on special grounds only, and by special leave, upon an appeal from a judgment after trial or hearing on the merits. The Court of Appeal may draw inferences of fact: and has full power over the costs of appeal . . . . . ,, 4.

New trial.—The Court of Appeal may order a verdict and judgment to be set aside, and a new trial to be had . . . ,, 5.

Notice of appeal by respondent.—No cross-appeal is necessary, but a respondent may give notice of his intention to contend that the order of the Court below ought to be varied . . . ,, 6.

Length of notice by respondent.—Such notice on an appeal from a final judgment is an *eight days'* notice, and, from an interlocutory order, a *two days'* notice . . . . . ,, 7.

Setting down appeal.—The judgment or an office copy must be produced to the proper officer, and a copy of the notice of motion left for filing; he will thereupon set down the appeal: which will come on in its order, unless advanced . . . ,, 8.

Time for appeal in certain cases.—Time for appealing from any order in a winding-up, or bankruptcy, or in any other matter not being an action, is the same as that limited for appeal from an interlocutory order . . . . . ,, 9.

Appeal from refusal of ex parte application.—May be made *ex parte* within *four days* from the date of refusal . . . ,, 10.

Evidence on appeal as to question of fact.—Evidence taken in the Court below must be brought before the Court of Appeal: (*a*) As to evidence by affidavit, by production of prints or office copies. (*b*) As to oral evidence, by production of the Judge's notes, or such other materials as the Court may deem expedient . . . . . ,, 11.

Order to print evidence.—The Court below, or the Court of Appeal, may order the whole or any part of the evidence to be printed. A party printing without order must bear the costs thereof, unless the Court of Appeal otherwise orders . . ,, 12.

Evidence as to direction of Judge to jury or assessors.—The Court in such case is to have regard to verified notes or other evidence, and to such other materials as it may deem expedient ,, 13.

Interlocutory order not to prejudice appeal.—No interlocutory order or rule not appealed from is to bar or prejudice the Court of Appeal from giving such decision as may be just . . . ,, 14.

Time for appealing from interlocutory or final order.—Time for appealing from an interlocutory order: or from an order, whether final or interlocutory, in any matter not being an action: is *twenty-one days*, and in other cases *one year*. In the case of an appeal from an order in Chambers, the time runs from the time the order was *pronounced*, or when the appellant first had notice thereof, and in other cases from the time the order is signed, entered, or otherwise *perfected*, or in case of *refusal*, from the *date* of such refusal . . . . . ,, 15.

Security for costs.—Such deposit or other security for costs must be given as may be directed by the Court of Appeal . ,, ,,

Stay of proceedings.—An appeal will not operate as a stay of proceedings under the decision appealed from, unless the Court below or the Court of Appeal so orders . . . . . ,, 16.

	ORDER.
Applications to Court below.—Applications which may be made either to the Court below, or to the Court of Appeal, must be made in the first instance to the Court below . . .	LVIII. 17.
Application to a single Judge.—Every application to a Judge of the Court of Appeal must be made by motion	,, 18.
Interest where execution delayed.—Interest will be allowed for such time as an execution has been delayed by an appeal, and the taxing officer may compute such interest, without any order for the purpose	,, 19.

As to the constitution of the Court of Appeal, see Dan. Pr. 3; as to its appellate jurisdiction, see Dan. Pr. 6—10, 1282, note (*y*); as to its original jurisdiction, see Dan. Pr. 11, 12; *Brown* v. *Collins*, 25 Ch. D. 56; as to its alternative jurisdiction, see Dan. Pr. 11; *Cropper* v. *Smith*, 24 Ch. D. 305; as to appeals from a Judge at Chambers, see Dan. Pr. 9, 1282, note (*c*); and see Form 1141, and note (*e*) thereto.

1449. Motion paper for leave to appeal from refusal of an *ex parte* application after expiration of time limited (*d*). [Dan. Pr. 1285.]

Formal parts: see Form 36.

To move on behalf of the plaintiff [*or as may be*], that, notwithstanding the time limited has expired, he may be at liberty on or before the —— day of ——, 188—, to apply by way of appeal for an order that (*Here state the order required*).

1450. Notice of motion for leave to appeal after expiration of time limited (*e*). [Dan. Pr. 1285.]

Formal parts: see Form 38.

on the part of the plaintiff [*or as may be*], that, notwithstanding the time limited has expired, he may be at liberty, on or before the —— day of ——, 188—, to serve and to set down for hearing a notice of motion by way of appeal from the judgment [*or*, order] made in this action and dated the —— day of ——, 188—.

Or, from so much of the judgment [*or*, order] made in this action and dated the —— day of ——, 188—, as directs (*State what*).

(*d*) See R. S. C. Ord. LVIII. 10, 17; and note (*c*), *supra*. The application should in the first instance be made to the Court below: R. S. C. Ord. LVIII. 17; and if refused, it may be made, by way of original motion and not by way of appeal, to the Court of Appeal: *Cropper* v. *Smith*, 24 Ch. D. 305: 32 W. R. 212.

(*e*) *Time for appealing.*—As to the times for appealing, see R. S. C. Ord. LVIII. 9, 15; and note (*c*), *supra*. An appeal is brought by notice of appeal being given: so that if such notice be given within the time limited for appealing, the appeal is brought in time, although the day for which notice is given happens to be beyond such time: *Re Corporation of Huddersfield* v. *Jacomb*, L. R. 10 Ch. 92; *Smith* v. *Parkside Mining Co.*, 6 Q. B. D. 67. For form of order extending the time for appealing, see 2 Seton, 1601, No. 8.

Any doubt as to what judgments and orders are final, and what interlocutory, will be determined by the Court of Appeal: Sup. Cot. Jud. Act, 1875 (38 & 39 Vict. c. 77), s. 12. As to what are interlocutory orders, and time for appealing, see 2 Seton, 1607—1610; Dan. Pr. 1285—1287; Wilson, 106, 496, 497; Ann. Pr. 544, 545. As to what is a refusal within R. S. C. Ord. LVIII. 15, see Dan. Pr. 1286, 1287; 2 Seton, 1609, 1610; *Hooper* v. *Smith*, 26 Ch. D. 614: 33 W. R. 18. For

1451.

Motion paper for leave to appeal, by a person not a party to the action (*f*). [Dan. Pr. 1284.]

Formal parts: see Form 36.

to move on the part of G. H., of (*residence and addition*), that he may be at liberty to serve (*Continue as in* Form 175 *to the end*).

1452.

Notice of appeal motion (*g*). [Dan. Pr. 1289.]

Formal parts: see Form 38.

on the part of the plaintiff [*or as may be*], that the judgment [*or*, order] made in this action and dated the —— day of ——, 188—, may be reversed.

If part only of the judgment or order is appealed from, add: so far as it directs that (*Here specify the part of the judgment or order complained of*).

And that it may be adjudged [*or*, ordered] that (*Here state the relief claimed*).

1453.

Præcipe on setting down motion for hearing (*h*). [Dan. Pr. 1292.]

188—. B. No. .

In the Court of Appeal.

B. *v.* D.

Enter this appeal from the judgment [*or*, order] of Mr. Justice —— in this action, dated the —— day of ——, 188—.

Dated —— day of ——, 188—.

(*Name and address of solicitor or party setting down.*)

---

cases in which leave has been granted or refused, see Dan. Pr. 1288, 1289; *In re Madras Irrigation and Canal Co., &c.*, 23 Ch. D. 248; *In re Manchester Economic Building Society*, 24 Ch. D. 488: 32 W. R. 325.

According to some of the earlier decisions an extension of time would not be granted, unless there had been on the part of the respondent default or conduct which, by an application of certain principles of equity, ought to estop the respondent from objecting to the appeal being out of time; but the Court of Appeal has recently held that there is no such artificial restriction on the power of the Court to extend the time, and that this power ought to be exercised whenever, having regard to the facts of the particular case, justice requires that it should be so exercised; see *Re Manchester Economic Building Society*, 24 Ch. D. 488, 497, 499, 503.

A respondent may, on the opening of an appeal, object that it is brought out of time without leave; and he ought not, where he intends to take this objection, to allow the appellant to incur expense in preparing for the appeal, without notice of the intended objection; if he does so, he may lose his costs: *Re Blyth & Young*, 13 Ch. D. 416.

(*f*) See 2 Seton, 1605, 1608; Ann. Pr. 534, 535.

(*g*) As to mode of application, see R. S. C. Ord. LVIII. 1; 2 Seton, 1606; Wilson, 487; Ann. Pr. 335. As to service: R. S. C. Ord. LVIII. 2; Wilson, 488, 489; Ann. Pr. 536. As to length of notice: R. S. C. Ord. LVIII. 3; 2 Seton, 1607; Ann. Pr. 536; and see note (*c*), *supra*. As to inaccuracies in notice, see *Kettlewell* v. *Watson*, 31 W. R. 709; *Re New Callao*, 22 Ch. D. 484: 31 W. R. 185.

(*h*) See R. S. C. Ord. LVIII. 8; App. G., No. 23; and note (*c*), *supra*. On entering or setting down the appeal motion for hearing, a fee of 2*l.* is payable: by a

1454.

I certify that the order from which this appeal is brought was made on an application for an injunction [*or as may be*].

(*Name and address of solicitor or party.*)

Certificate on setting down an appeal from an interlocutory order (*i*).

[Dan. Pr. 1292.]

1455.

Formal parts : see Form 38.

on the part of the plaintiff [*or as may be*], that he may be at liberty to amend his notice of motion by way of appeal from the judgment [*or*, order] dated the —— day of ——, 188—, by (*Here specify the amendment which it is desired to make*).

Notice of motion for leave to amend the notice of appeal (*j*).

[Dan. Pr. 1289.]

1456.

Title : see Form 1453 ; *other formal parts : see* Form 36.

To move on behalf of all parties, that the appeal of the plaintiff [*or as may be*] from the judgment [*or*, order] made in this action and dated the —— day of ——, 188—, may be withdrawn.

If the appeal has been set down, add: And that the said appeal may be struck out of the list of appeals for hearing accordingly.

Motion paper to withdraw appeal by consent.

[Dan. Pr. 1294.]

1457.

Formal parts : see Form 38.

on the part of the plaintiff [*or as may be*], that he may be at liberty

Notice of motion to withdraw appeal, where not consented to.

[Dan. Pr. 1294.]

---

stamp impressed on the *præcipe :* Ord. as to S. C. Fees, 1884, Sched. No. 52 ; Ord. as to Fees, &c., July, 1884, p. 8. As to setting down appeals, see 2 Seton, 1610, 1611 ; Wilson, 493 ; Ann. Pr. 540. Three copies of each of the following documents, viz.:—the notice of appeal, the order or judgment appealed from, and the pleadings or other documents showing the nature of the appeal—must be left for the use of the Judges at least one week before the appeal is likely to appear in the paper ; these papers must be left with the first officer of the Master of the Rolls ; and they must be put together in three sets : one complete set for each Judge : Notice 21st Nov. 1881 : see W. N. (1881), 581, Misc. ; 26 Sol. J. 62.

(*i*) This certificate is necessary only where the appeal is from an order on an interlocutory application. Appeals from orders on the following applications are put in a separate list for hearing : (1.) Applications for injunctions, prohibitions, writs *ne exeat regno*, *certiorari*, and stop orders on securities or documents in Court ; (2.) Applications for and relating to the appointment of receivers, managers, and official liquidators ; (3.) Applications for enlarging time for redemption, for payment into Court, or for doing any other act or taking any proceeding ; (4.) Applications relating to wards or infants, and the management of their property ; (5.) Applications relating to matters of contempt, and to the execution of judgments and orders ; (6.) Applications relating to the discovery and production of documents ; (7.) Generally, all applications relating to practice and procedure. In such cases the solicitor must certify at the foot of the notice of motion the class to which it belongs : Registrar's notice, Jan. 1877, W. N. (1877), 88, Misc.

(*j*) See R. S. C. Ord. LVIII. 2 ; and note (*e*), *supra ;* 2 Seton, 1607 ; Ann. Pr. 536.

to withdraw his appeal from the judgment [*or*, order] made in this action and dated the —— day of ——, 188—.

If the appeal has been set down, add: And that the said appeal may be struck out of the list of appeals for hearing accordingly.

1458.

Notice of motion for security for costs of appeal (*k*). [Dan. Pr. 1295.]

Formal parts: see Form 38.

on the part of the defendant [*or as may be*], that the plaintiff [*or as may be*] may be ordered to give security in the sum of £—— (*l*) to answer the costs of his appeal from the judgment [*or*, order] dated the —— day of ——, 188—. And that the said appeal may not be placed in the paper for hearing until fourteen days next after such security shall have been given, and notice thereof shall have been given to the applicant. And that the costs of this application may abide the result of the appeal (*m*).

1459.

Notice of motion to dismiss appeal for want of prosecution (*n*). [Dan. Pr. 1296.]

Formal parts: see Form 38.

on the part of the defendant [*or as may be*], that the appeal of the plaintiff [*or as may be*] from the judgment [*or*, order] made in this action and dated the —— day of ——, 188—, may stand dismissed,

If there are other respondents than the applicant, add: as against the applicant,

for want of prosecution, with costs to be paid by the plaintiff [*or as may be*] to the applicant: including in such costs the applicant's costs of the application for security for the costs of the said appeal and of this application.

1460.

Notice of motion by respondent for leave to serve notice of contention that the order appealed from ought to be varied (*o*). [Dan. Pr. 1290.]

Formal parts: see Form 38.

on the part of the defendant [*or as may be*], that, notwithstanding the time limited has expired, he may be at liberty on or before the —— day of ——, 188—, to serve upon the parties who may be affected

(*k*) See R. S. C. Ord. LVIII. 15; and note (*c*), *supra*. As to security for costs of an appeal, see 2 Seton, 1614—1616; Wilson, 497—498; Ann. Pr. 546, 547; Morgan and Wurtzburg, 141, 144. For forms of order, see 2 Seton, 1613, No. 9: 1614, No. 10. Special circumstances must be shown: see R. S. C. Ord. LVIII. 15; Dan. Pr. 1294, 1295, and cases there cited; and see *Nixon* v. *Sheldon*, *Sheldon* v. *Nixon*, W. N. (1884), 81; *In re Photographic Artists' Co-operative Supply Association*, 23 Ch. D. 370: 31 W. R. 509; *Faner* v. *Lacey*, *Hartland & Co.*, 33 W. R. 265. The application should be made promptly: see *Re Indian*, *Kingston, and Sandhurst Gold Mining Co.*, 22 Ch. D. 83: 31 W. R. 34.

(*l*) The true test as to the amount of security to be given is not the amount at stake, but the probable amount of costs to be incurred on behalf of the respondent: see *Morecroft* v. *Evans*, W. N. (1882), 189.

(*m*) See *Phosphate Sewage Co.* v. *Hartmont*, 2 Ch. D. 811.

(*n*) Where the appellant fails to give security by the time named his right of appeal is gone for ever: *Harris* v. *Fleming*, 30 W. R. 555. For form of order, see 2 Seton, 1614, No. 11.

(*o*) See R. S. C. Ord. LVIII. 6, 7; and note (*c*), *supra*; 2 Seton, 1613.

thereby a notice of his intention to contend, upon the hearing of the plaintiff's [*or as may be*] appeal from the judgment [*or*, order] dated the —— day of ——, 188—, that the said judgment [*or*, order] ought to be varied.

1461. Respondent's notice of his intention to contend that judgment or order appealed from ought to be varied (*p*). [Dan. Pr. 1291.]

Formal parts: see Form 38.

Take notice that, upon the hearing of the plaintiff's [*or as may be*] appeal from the judgment [*or*, order] made in this action and dated the —— day of ——, 188—, the defendant C. D. [*or as may be*] intends to contend that the said judgment [*or*, order] should be reversed or varied so far as it directs that (*Here specify the part of the judgment or order complained of*). And that instead thereof it should be adjudged [*or*, ordered] that (*Here state the relief claimed*).

1462. Affidavit of service thereof.

(*Same as* Form 35.)

1463. Motion paper for leave to use shorthand writer's notes of evidence (*q*). [Dan. Pr. 1301.]

Formal parts: see Form 38.

To move on the part of the plaintiff [*or as may be*], that all parties may be at liberty to read and use on the hearing of the plaintiff's appeal from the judgment [*or*, order] dated the —— day of ——, 188—, a duly verified transcript of the shorthand writer's notes of the evidence given orally on the trial of this action [*or*, on the hearing of the application on which the said order was made]. And that the costs of transcribing the said notes, and of this application, may abide the result of the appeal.

1464. Affidavit verifying transcript of shorthand writer's notes.

(*Same as* Form 670.)

1465. Motion paper for liberty to print evidence not printed in the Court below (*r*). [Dan. Pr. 1302.]

Formal parts: see Form 36.

To move on behalf of the plaintiff [*or as may be*], that he may be at liberty to print, for the purpose of his appeal from the judgment [*or*, order] made in this action, and dated —— day of ——, 188—, the Judge's notes [*or as may be*] of the evidence taken orally in the Court below.

(*p*) See R. S. C. Ord. LVIII. 6; and note (*c*), *supra*; 2 Seton, 1613; Wilson, 493; Ann. Pr. 539. As to the rights of a respondent who has given notice under this rule, if the appellant withdraws his appeal, see *The Beeswing*, 10 P. D. 18; 33 W. R. 319. As to apportionment of costs, see *Robinson* v. *Drakes*, 23 Ch. D. 98: 31 W. R. 871.

(*q*) As to evidence on appeals, see R. S. C. Ord. LVIII. 4, 11—13; and note (*c*), *supra*; 2 Seton, 1611, 1612; Wilson, 491, 492, 495; Ann. Pr. 537, 538, 542, 543.

(*r*) See R. S. C. Ord. LVIII. 12; and note (*c*), *supra*; 2 Seton, 1611; Wilson, 495; Ann. Pr. 543. The application must be made in the first instance to the Court below: R. S. C. Ord. LVIII. 17.

1466.

Notice of intention to apply for leave to adduce further evidence (*s*). [Dan. Pr. 1303.]

Formal parts : see Form 37.

Take notice that, upon the hearing of the plaintiff's [*or as may be*] appeal from the judgment dated the —— day of ——, 188—, the plaintiff [*or as may be*] will apply for the special leave of the Court of Appeal to adduce further evidence upon the said appeal as to (*Here specify the points upon which it is intended to adduce further evidence*), upon the grounds that (*Here specify the special grounds upon which the application will be made*).

1467.

Præcipe for *subpœna ad test.* on hearing of appeal.

(*Same as* Form 733, *entitling the præcipe thus :* "In the Court of Appeal.")

1468.

Subpœna ad test. [Dan. Pr. 1303.]

(*Same as* Form 734, *entitling the subpœna* "In the Court of Appeal," *and the witness being required to appear before* "our Court of Appeal.")

1469.

Notice to witness of time and place of attendance.

(*Same as* Form 737, *the witness being required to appear before* "The Court of Appeal, at the Royal Courts of Justice, London.")

1470.

Brief on hearing of appeal (*t*). [Dan. Pr. 1299, note (*o*).]

(1.) Contents

188—. B. No. .

In the Court of Appeal.

Between A. B. . . . Plaintiff,

and

C. D. . . . Defendant.

Brief for the plaintiff [*or*, defendant] on the plaintiff's [*or as may be*] appeal.

Observations.

(*Here copy any necessary and proper observations.*)

(2.) Indorsement.

Fold the brief longways and indorse it, thus :

In the Court of Appeal.

Brown *v.* Dobinson. } Brief on hearing of plaintiff's [*or as may be*] appeal from judgment [*or*, order] dated —— day of ——, 188—.

For (*Continue as in* Form 832, *to end*).

(*s*) See R. S. C. Ord. LVIII. 4 ; and note (*o*), *supra ;* 2 Seton, 1611 ; Wilson, 491 ; Ann. Pr. 537, 538. An order made on a creditor's claim in an administration action is of the nature of a final order, and fresh evidence cannot be read on an appeal, without special leave : *Norton* v. *Compton*, 27 Ch. D. 392 : 33 W. R. 160.

(*t*) The brief on the appeal will consist of counsel's brief on the trial or hearing in the Court below : a copy of the notes of any evidence given orally in the Court below : a copy of the judgment or order appealed from : a copy of the notice of

1471.

Consent to appeal being prematurely heard (*u*). [Dan. Pr. 1297.

188—. B. No. .

In the Court of Appeal.

B. *v.* D.

We consent to the plaintiff's [*or as may be*] appeal from the judgment [*or*, order] dated —— day of ——, 188—, being placed in the paper of appeals for hearing before the Court of Appeal on the —— day of ——, 188—.

Dated —— day of ——, 188—.

O. P., solicitor for appellant.

Q. R., solicitor for respondent C. D.

S. T., solicitor for all the other respondents.

1472.

Notice of motion to advance an appeal (*v*). [Dan. Pr. 1297.]

Formal parts: see Form 38.

on the part of the plaintiff [*or as may be*], that his appeal from the judgment [*or*, order] made in this action and dated the —— day of ——, 188—, may be advanced, and may be ordered to be heard next after the appeals which have already been placed in the paper of any day for hearing.

1473.

Notice of motion to vary minutes of order on appeal (*w*). [Dan. Pr. 1311.]

Formal parts: see Form 38.

on the part of the plaintiff [*or as may be*], that the minutes of the order pronounced in this action by Her Majesty's Court of Appeal on the —— day of ——, 188—, as given out by the Registrar, may be varied or altered in the following respect, namely (*Specify the particular matter to be added or altered*).

appeal motion: a copy of the respondent's notice (if any) of his intention to contend that the judgment or order appealed from ought to be varied, and of any other notices relating to the appeal; and where it is desired to adduce further evidence upon the appeal, a copy of such further evidence, if it has been taken by affidavit or deposition; or, if it is intended to examine witnesses orally in open Court, a concise statement of the material facts which each witness can prove. The brief should also be accompanied by any necessary and proper observations. As to the fees allowed on an appeal, see *Sturgis* v. *Morse*, 26 Beav. 562.

(*u*) Except otherwise directed by the Court of Appeal, the appeal will not come into the paper for hearing before the day named in the notice of appeal: R. S. C. Ord. LVIII. 8.

(*v*) As to advancing appeals, see 2 Seton, 1610; Ann. Pr. 541.

(*w*) See *General Share and Trust Company* v. *Watley Brick and Pottery Co.*, 20 Ch. D. 130; 30 W. R. 695.

Section III.—Appeals to the House of Lords (*a*).

(*Dan. Pr.*, pp. 1313—1332, cccci.)

1474.

Petition of appeal (*b*). [Dan. Pr. 1313.]

To the Right Honourable the House of Lords.

The humble (*c*) petition and appeal of A. B., of (*residence and addition*).

Your petitioner humbly (*c*) prays, that the matter of the judgment [*or*, order—*or*, orders] set forth in the schedule hereto

If part only of the judgment or order is appealed against, say: so far as the same is therein stated to be appealed against,

may be reviewed before Her Majesty the Queen in Her Court of Parliament, and that the said judgment [*or*, order]

If part only is appealed against, say: so far as aforesaid

may be reversed, varied, or altered; or that the petitioner may have such other relief (*d*) in the premises as to Her Majesty the Queen in Her Court of Parliament may seem meet. And that C. D. and E. F. (*Here name the respondents*), mentioned in the schedule to the appeal, may be ordered to lodge such printed cases as they may be advised and the circumstances of the cause may require in answer to this appeal; and that

(*a*) An appeal lies to the House of Lords from any order or judgment of Her Majesty's Court of Appeal in England: Appellate Jurisdiction Act, 1876 (39 & 40 Vict. c. 59), s. 3. As to the persons before whom such appeals are to be heard, see the Appellate Jurisdiction Act, 1876, s. 5; as to the hearing and determination of appeals during a prorogation of Parliament, *Ibid.*, s. 8; and during a dissolution of Parliament, *Ibid.*, s. 9. As to the practice and procedure on appeals to the House of Lords, *Ibid.*, s. 11; Forms and Standing Orders of 1883; Wilson, 791, *et seq.*

(*b*) *The petition of appeal.*— See the Appellate Jurisdiction Act, 1876, s. 4. For form of petition and appeal, see Forms and Standing Orders, 1883. The petition and appeal must be printed on parchment (quarto size): Directions for Agents, June, 1883. Two clear days' notice of intention to appeal, together with a correct copy of the appeal, must be served on the respondents or their solicitors prior to presentation: *Ibid.* The appeal, together with four printed paper copies, may then be lodged in the Parliament Office; and, if the House be then sitting, or if not, in the next ensuing meeting of the House, the appeal will be presented to the House, and an order made requiring the respondents to lodge cases in answer to the appeal: *Ibid.*, 3. An appeal must be lodged within one year from the date of the last judgment or order appealed from: Standing Ord. I.; except where the person entitled to appeal is within the age of twenty-one years, or *covert*, *non compos mentis*, imprisoned, or out of Great Britain and Ireland, in which cases the petition and appeal may be lodged in the Parliament Office within one year next after full age, discoverture, coming of sound mind, enlargement out of prison, or coming into Great Britain or Ireland: *Ibid.* But in no case will any person or persons be allowed a longer time, on account of mere absence, to present an appeal, than five years from the date of the last judgment or order appealed against: *Ibid.* The petition and appeal must be signed, and the reasonableness thereof certified, by two counsel who have attended as counsel in the Court below, or purpose attending as counsel on the appeal: Standing Ord. II.

(*c*) When the petitioner is a peer, this word is omitted.

(*d*) If specific relief be desired, it can be so stated in the prayer; see the form of petition and appeal in the Forms and Standing Orders of June, 1883.

service of such order on the solicitors in the cause of the said respondents may be deemed good service thereof.

X. Y. } (*Signatures of two*
T. Z. } *counsel* (*e*)).

The Schedule above referred to (*f*).

From Her Majesty's Court of Appeal (England).

In a certain cause [*or*, matter] wherein A. B. was plaintiff and C. D. and E. F. were defendants (*The names of all parties to the appeal, whether original plaintiffs or defendants in the cause, or added by subsequent orders, must be here set forth*).

If the whole of the judgment or order is appealed from, proceed thus: The judgment [*or*, order] of (*State Court and date of order*), appealed from is in the words following, viz.: (*Here set out the judgment or order in italics*).

If part only of the judgment or order is appealed from, proceed thus: The judgment [*or*, order] of (*State Court and date of order*), referred to in the above prayer, is in the words following, the portion appealed from being printed in italics (*Here set out the judgment or order: the portion complained of being printed in italics, the portion not complained of being printed in Roman type*).

We humbly conceive this to be a proper case to be heard before your lordships by way of appeal.

X. Y. } (*Signatures of two*
T. Z. } *counsel* (*e*)).

1475. Notice to respondents of intention appeal (*f*) [Dan. Pr. 1315.]

In the House of Lords.

On an appeal from Her Majesty's Court of Appeal.

Between A. B. . . . Appellant,
C. D. and E. F. . Respondents.

Take notice that, on the —— day of ——, 188—, or so soon after as conveniently may be, a petition of appeal will be presented to the House of Lords on behalf of the above-named plaintiff A. B. [*or as may be*], against the judgment [*or*, order] of Her Majesty's Court of Appeal dated the —— day of ——, 188—.

Dated the —— day of ——, 188—.

X. Y.,
Solicitor for the said A. B.

To the above-named defendants C. D. and E. F., and to Mr. Z. T., their solicitor.

(*e*) See Standing Ord. II. In the event of the autograph signatures not being subscribed to the parchment appeal, the draft containing them must be shown to the Clerks of the Judicial Department at the time of lodging the appeal.

(*f*) See Directions for Agents, 1883, 2; and note (*b*), *supra*.

1476.

Certificate of service of notice (*g*). [Dan. Pr. 1315.]

I, ——, clerk to Messrs. ——, of ——, solicitors for the appellants within-named, hereby certify that on the —— day of ——, I served Messrs. ——, of ——, solicitors for ——, the within-named respondents, with a correct copy of the aforegoing appeal, and with a notice that on the —— day of ——, or as soon after as conveniently may be, the petition of appeal would be presented to the House of Lords on behalf of the appellant.

1477.

Affidavit of service of order for respondents to lodge cases (*h*). [Dan. Pr. 1315.]

Title: as in Form 1475.

I, E. F., of (*residence and addition*), make oath and say, that I did on the —— day of ——, 188—, serve the within order upon C. D., the respondent within-named [*or*, upon G. H., of (*place of business*), the solicitor for C. D., the respondent within-named], by delivering to, and leaving with the said C. D. [*or*, G. H.] a true copy of the said order; and at the same time showing to him the said original order.

Sworn (*&c.: see* Form 9).

1478.

Certificate of sufficiency of sureties or substitute (*i*). [Dan. Pr. 1316.]

Lodged in the Parliament Office on the —— day of ——. 188—.

In the House of Lords.

A. B. and others *v.* C. D. and others.

In compliance with Standing Order No. IV., I [*or*, we] submit the

(*g*) The certificate must be entered on the appeal: Directions to Agents, June, 1883, 2.

(*h*) Upon the petition and appeal being lodged for presentation, if the House be then sitting, or, if not, on the next ensuing meeting of the House, an order will be issued to the appellant's agent, ordering the respondents to lodge cases in answer to the appeal: Directions for Agents, June, 1883, 3. This order must be served on the respondents or their solicitors: *Ibid.* Within six weeks from the date of the presentation of the appeal to the House, the order, together with an affidavit of due service entered thereon, must be returned to the Parliament Office, unless within that period all the respondents shall have lodged their printed cases: Standing Ords. III. and V. The solicitors of those respondents who purpose lodging printed cases in answer to the appeal, should, upon being served with the order, attend at the Parliament Office, and enter their names in the appearance book: Directions for Agents, June, 1883, 16.

(*i*) *Security for costs of appeal.*—Unless the appellant obtains leave to prosecute his appeal *in formâ pauperis* (see Form 1481), he must give security to the Clerk of the Parliaments by recognizance to be entered into, in person or by substitute, to the Queen, in the penalty of 500*l.*, conditioned to pay to the respondent or respondents all such costs as may be ordered to be paid by the House in the matter of the appeal, and a bond for 200*l.* with two sureties, or payment of 200*l.* into the Fee Fund of the House of Lords. In the event of a substitute being proposed to enter into the recognizance, the appellant must, within one week after the presentation of the appeal, submit to the Clerk of the Parliaments the name of such substitute; and a certificate of the solicitor or agent of the appellant, certifying his belief in the sufficiency of the substitute so proposed, must at the same time be lodged in the Parliament Office: Standing Ord. IV.; Directions for Agents, June, 1883, 6. Two clear days' previous notice of the name of the person proposed as substitute must be given to the solicitor or agent of the respondent: Standing Ord IV.; and a certificate of such notice must be written at the foot of the certifi-

names of (*full name*), of (*address*), and (*full name*), of (*address*), as fit and proper sureties [*or*, a fit and proper substitute], to enter into the bond [*or*, recognizance] thereby required; and I [*or*, we] certify that in my [*or*, our] belief the said (*full name*) and the said (*full name*) are each [*or*, is] worth upwards of £200 [*or*, £500] over and above their [*or*, his] just debts.

Dated —— day of ——, 188—.

X. Y.,
Solicitor for the appellant (*k*).

1479.

Notice to be indorsed on copy certificate served on respondents' agents (*l*). [Dan. Pr. 1316.]

In the House of Lords.

A. B. and others *v.* C. D. and others.

Take notice that the appellant A. B. proposes (*Insert names of proposed sureties or substitute*), of (*address and description*), as sureties [*or*, a substitute] to enter into the bond [*or*, recognizance] required by Standing Order IV. And that it is the intention of the said appellant on the —— day of ——, 188—, or as soon after as conveniently may be, to lodge in the Parliament Office a certificate of which the within is a copy.

Dated —— day of ——, 188—.

X. Y.,
Solicitor for the appellant A. B.

To C. D., the above-named respondent, and to Mr. Z. T., his solicitor.

---

cate of sufficiency lodged in the Parliament Office; for form of notice, see Form 1479; for form of certificate of service, see Form 1480. The names of the proposed sureties to the bond, where one is given, together with a certificate of sufficiency by the solicitor or agent of the appellant, must be in like manner lodged in the Parliament Office within one week after the presentation of the appeal: two clear days' notice of the names proposed, together with a copy of the certificate, having been previously given to the solicitor or agent of the respondents. At the termination of one week from the lodgment of the certificates above mentioned, the bond and recognizance will be issued to the solicitor or agent of the appellants, for execution before a commissioner appointed to administer oaths in the Supreme Court of Judicature in England or in Ireland, or before a justice of the peace in Scotland; and it must be returned to the Parliament Office, duly executed, within one week from the date of the issue thereof to the solicitor or agent of the appellants; otherwise the appeal will stand dismissed: Standing Ord. IV.; Directions for Agents, June, 1883, 7, 10, 11.

(*k*) The certificate may be signed by the country solicitor or agent of the appellants.

(*l*) This notice must be served two clear days before the certificate of sufficiency is lodged in the Parliament Office: Standing Ord. IV.; a copy of the certificate of sufficiency must be served with it.

1480.

Certificate of service of notice (*m*). [Dan. Pr. 1316.]

I [*or*, We] certify that a copy of the above certificate and two clear days' notice of the intention to lodge the same in the Parliament Office has been served on the solicitors or agents of the respondents.

Dated —— day of ——, 188—.

1481.

Petition of the appellant for leave to appeal *in formâ pauperis*. [Dan. Pr. 1314.]

Title: as in Form 1475.

To the Right Honourable the House of Lords.

The humble petition of the appellant.

Showeth:

That on the —— day of ——, 188—, your petitioner presented to your lordships a petition of appeal: complaining of a judgment [*or*, order] of Her Majesty's Court of Appeal (England) dated —— day of ——, 188—.

That your petitioner being very poor, as by the affidavit and certificate annexed appears, is by reason of such his poverty unable to prosecute his appeal, unless he is admitted by your lordships to do so *in formâ pauperis*.

That by an order of the High Court of Justice made in the said cause your petitioner was, on the —— day of ——, 188—, admitted to prosecute his action in the said Court *in formâ pauperis*.

Your petitioner therefore most humbly prays, that your lordships will be pleased to order that he may be admitted to prosecute his said appeal *in formâ pauperis*.

And your petitioner will ever pray, *&c.*

1482.

Affidavit of poverty. [Dan. Pr. 1314.]

I, A. B., make oath and say, that on or about the —— day of ——, 188—, I intend to offer for presentation to the House of Lords a petition of appeal: complaining of (*State what: see* Form 1481).

That I am very poor, and am not worth in all the world the sum of five pounds in lands, tenements, goods, or chattels: my wearing apparel, and the subject-matter of the said appeal only excepted; and am, by reason of such my poverty, unable to prosecute the said appeal.

Sworn before me, at ——, in the (county) of ——, this —— day of ——, 188—. } A. B.

(*Signature of person before whom affidavit sworn, and style of office.*)

(*m*) This certificate must be written on the certificate of sufficiency, and signed by the London solicitor or agent of the appellants. For form of certificate, see Forms and Orders, June, 1883.

1483.
Certificate of poverty. [Dan. Pr. 1314.]

We, the undersigned, do hereby certify that A. B., of (*residence and addition*), in the above-written affidavit named, is a very poor person.

Dated this —— day of ——, 188—.

C. D., Minister of the parish [*or as may be*] of ——, in the (county) of ——.

E. F. } Churchwardens of the said parish [*or as*
G. H. } *may be*] of ——.

1484.
Petition for extension of time to present cross-appeal (*n*). [Dan. Pr. 1317.]

In the House of Lords.

A. B. and others *v.* C. D. and others.

To the Right Honourable the House of Lords.

The humble petition of the respondent C. D.

Showeth as follows :

1. That the appellant presented his petition of appeal on the —— day of ——, 188—, complaining of a judgment [*or*, order] of Her Majesty's Court of Appeal (England), dated —— day of ——, 188—.

2. That the time allowed by Standing Order VI.

If the time has already been enlarged by order, add: enlarged by your lordships' order dated the —— day of ——, 188—,

for the petitioner to present his cross-appeal to this House will expire on the —— day of ——, 188—.

3. That your petitioner (*Set forth cause of delay*).

Your petitioner therefore humbly prays, that your lordships will be pleased to grant him an extension of time until (*Specify the date to which extension of time is required*) to present his cross-appeal to this House.

And your petitioner will ever pray, *&c.*

Z. T.,
Solicitor for the petitioner.

1485.
Notice of intention to present the petition (*o*). [Dan. Pr. 1317.]

The petition of which the within is a copy is intended to be presented to the House of Lords on ——day, the —— day of ——, 188—, or as soon after as may be.

Dated this —— day of ——, 188—.

(*n*) Cross-appeals must be presented to the House within the period allowed for lodging cases in the original appeal: Standing Ord. VI.; *i.e.*, within six weeks from the presentation of the original appeal to the House: Standing Ord. V.; unless such time expires during the recess of the House, in which case the time is extended to the third sitting day of the next ensuing meeting of the House: Standing Ord. VII. The petition must be engrossed on foolscap, bookwise; a duplicate of the petition must be lodged in the Parliament Office together with the original petition: Directions for Agents, June, 1883, 17.

(*o*) Two clear days' notice of the application for further time must be given to the appellant's agent, and the notice should be accompanied by a copy of the petition: Directions to Agents, June, 1883, 17. Where a consent is given to the prayer of an incidental petition, it is usually "read and ordered as prayed." If no such consent is given, it is "read and referred to the appeal committee." Counsel are not heard before the appeal committee: Directions for Agents, June, 1883, 17.

1486.

Consent to petition. [Dan. Pr. 1317.]

I consent to the prayer of the above petition.

X. Y.,
Appellant's agent.

1487.

Cross-petition of appeal (*p*). [Dan. Pr. 1317.]

(*Same as* Form 1474.)

1488.

Appellant's petition for extension of time to lodge cases and set down appeal for hearing (*q*). [Dan. Pr. 1321.]

Title and address: as in Form 1484.

The humble petition of the appellant A. B.

Showeth as follows:

1. That the petitioner presented his petition of appeal on the —— day of ——, 188—, complaining of a judgment [*or*, order] of Her Majesty's Court of Appeal (England) dated the —— day of ——, 188—.

2. That the time allowed by Standing Order No. V.

If the time has already been enlarged by order, add: enlarged by your lordships' order of the —— day of ——, 188—,

for the petitioner to lodge his printed cases and the appendix will expire on the —— day of ——, 188—.

3. That your petitioner (*Set forth cause of delay; as thus:* by reason of the importance of his case and the engagements of counsel, has been unable to lodge his printed cases and the appendix and to set the cause down for hearing).

Your petitioner therefore humbly prays, that your lordships will be pleased to grant him an extension of time until (*Specify the date to which extension of time is required*), to lodge his printed cases and the appendix, and to set the cause down for hearing.

And your petitioner will ever pray, *&c.*

X. Y.,
Solicitor for the appellant.

(*p*) A cross-petition is signed by counsel and presented like an original appeal. As to the time for presenting a cross-appeal, see Standing Ords. VI. and VII. The person presenting a cross-appeal is not usually required to give security for costs.

(*q*) The printed cases, and the appendix thereto, must be lodged in the Parliament Office within six weeks from the date of the presentation of the appeal to the House: Standing Ord. V.; unless that time expires during the recess of the House, in which case it is extended to the third sitting day of the next ensuing meeting of the House: Standing Ord. VII. The appeal must be set down for hearing on the first sitting day after the expiration of the time allowed for lodging the printed cases and appendix, or it may be set down earlier if all the printed cases and the appendix have been lodged: Standing Ord. V. If the appellant makes default in lodging his printed cases and the appendix, or in setting down the appeal, the appeal will stand dismissed: Standing Ord. V. If a respondent does not lodge his printed cases within the time specified, the cause is, on lodgment of the appellant's case and the appendix, set down for hearing *ex parte;* but the respondent may nevertheless at any time afterwards lodge his printed case, and thus put himself in the same position as if he had lodged it within the time specified in the order

1489.
Notice of intention to present the petition (*r*).

(*Same as* Form 1485.)

1490.
Appellant's petition to restore appeal and extend the time for lodging cases (*s*).
[Dan. Pr. 1321.]

Proceed as in Form 1488 *to the end of paragraph* 1.

2. That the time allowed by Standing Order V.

If the time has already been enlarged by order, add: extended by your lordships' order of the —— day of ——, 188—,

for the appellant to lodge his printed cases and the appendix, expired on the —— day of ——, 188—.

3. That your petitioner from inadvertence miscalculated the time for lodging his printed cases and the appendix; and your petitioner is informed that in consequence of the said cases and appendix not being lodged within the time limited, your petitioner's appeal stands dismissed.

Your petitioner therefore humbly prays, that your lordships will be pleased to order that his appeal may be restored, and that your lordships will be pleased to grant him an extension of time until (*Specify the date to which extension of time is required*) to lodge his printed cases and the appendix and for setting down the cause for hearing.

And your petitioner will ever pray, *&c.*

X. Y.,
Solicitor for the appellant.

1491.
Notice of intention to present petition (*t*).

(*Same as* Form 1485.)

1492.
Respondent's petition for leave to lodge case (*u*).
[Dan. Pr. 1321.]

Title and address: as in Form 1484.

The humble petition of the respondent C. D.

Showeth as follows:

1. That the appellant presented his petition of appeal on the ——

for service. When the lodgment has been delayed until a day for hearing the cause has been actually appointed, the respondent must petition for leave to lodge his printed case: Directions for Agents, June, 1883, 29. For form of petition to enlarge the time, see App. C. to Forms and Standing Orders, June, 1883.

(*r*) A copy of the petition and two clear days' notice of the intention to present it must be served on the respondent's solicitor.

(*s*) See note (*q*) to Form 1488.

(*t*) See note (*n*) to Form 1484.

(*u*) As to the time within which the cases should be lodged, see note (*q*) to Form 1488. Where the lodgment has been delayed until a day for hearing the appeal has been actually appointed, the respondent must petition for leave to lodge his printed case; until that time it will be accepted without an order: Directions for Agents, June, 1883, 29.

day of ——, 188—, complaining of a judgment [*or*, order] of Her Majesty's Court of Appeal (England), dated —— day of ——, 188—.

2. That the time allowed by Standing Order V., for the petitioner to lodge his printed cases has expired; but such cases are now ready to be lodged.

Your petitioner therefore humbly prays, that he may be at liberty now to lodge his printed cases.

And your petitioner will ever pray, *&c.*

Z. T.,
Solicitor for the petitioner.

1493.

Notice of intention to present petition (*v*).

(*Same as* Form 1485.)

1494.

Formal parts of a case (*w*). [Dan. Pr. 1318.]

In the House of Lords.

On an appeal from Her Majesty's Court of Appeal (England).

Between A. B. and E. F. . . . . Appellants,

and

C. D., G. H., and J. K. . . . Respondents.

The case of the appellants [*or*, of the respondents—*or*, of the respondent C. D.].

(*The case should contain all the material facts; and should concisely*

(*v*) See note (*o*) to Form 1485.

(*w*) All printed cases must be signed by one or more counsel who have attended as counsel in the Court below, or purpose attending as counsel at the hearing of the appeal: Standing Ord. V. 3; Directions for Agents, Aug. 1876, 25. The case and appendix must be printed quarto size, with seven or eight letters down the margin for facilitating reference, and should be submitted in *proof* to the Clerks in the Judicial Office: the title-page of the appellant's case must contain, at the top, a reference to the report of the cause below, if reported, or, if not reported, "catch words" or "index words," similar to those prefixed to reports of causes in the Law Reports; where reference is made in the case to a document printed in the appendix, the case must contain a marginal note of the page of the appendix containing such document; the appendix must contain an index to the documents therein: Directions for Agents, June, 1883, 26, 27. Each party must lodge in the Parliament Office forty copies of his case and the appendix; and, when all parties have lodged their cases, the appellant's agent must lodge in the Parliament Office ten bound copies of the appeal, the cases of all parties, and the appendix: *Ibid.*, 28. The following directions for binding printed cases for the use of the Law Lords are contained in App. B. to the Forms and Standing Orders, June, 1883.

1. Ten copies bound in purple cloth; two of the ten to be interleaved, as regards the cases only.

2. Short title of cause on the back.

3. Label on side, stating short title of cause and contents of the volume, thus:—"A—— and others *v.* B—— and others."

Printed copy of the appeal.
Appellant's case.
Respondent B.'s case.
Respondent C.'s case.

narrate the proceedings, and the substance of the pleadings and evidence or proofs: whether consisting of documents or depositions; and particularly those on behalf of the party whose case it is. The case usually concludes to the following effect:)

The appellants are advised, and humbly submit, that the said judgment [*or*, order] of the —— day of ——, 188—, is erroneous [*or*, so far as it ordered, *&c.*, is erroneous], and ought to be reversed, or varied; and the appellants have appealed therefrom to this most honourable House

Or, in the respondent's case: The respondent is advised, and humbly submits, that the said judgment [*or*, order] of the —— day of ——, 188—, is right; and that the same ought to be affirmed

for, amongst others, the following

REASONS.

1.
2. } (*State the reasons.*)
3.

(*Signature of counsel.*)

1495. Formal parts of a joint case (*x*). [Dan. Pr. 1319.]

Title: as in Form 1494.

The Joint Case of the Appellants and Respondents.

As to the contents of the case, see Form 1494, *and note* (*w*) *thereto; it should conclude to the following effect:*

The appellants are advised, and humbly submit, that the said judgment [*or*, order] of the —— day of ——, 188—, is erroneous [*or*, so far as it ordered, *&c.*, is erroneous], and ought to be reversed, or varied; and the appellants have appealed therefrom to this most honourable House for, amongst others, the following

REASONS.

1.
2. } (*State the reasons.*)
3.

The respondents are advised, and humbly submit, that the said judgment [*or*, order] of the —— day of ——, 188—, is right; and that the same ought to be affirmed for, amongst others, the following

Appendix (consisting of the appendix lodged by the appellant, and the *additional* documents, if any, lodged by the respondent).

4. The volume to be indented, and the names of the parties written on the indentations to their respective cases.

5. The bound copies to be lodged immediately after the respondent's cases are delivered in.

In dealing with bulky cases, it may be found advisable to bind the appendix as a separate volume.

It is the duty of the appellants' agent to carry out these directions.

(*x*) In appeals in which the parties are able to agree on their statement of the subject-matter, it is optional to lodge a joint case with the reasons *pro* and *con*: Directions for Agents, June, 1883, 21.

REASONS.

1.
2. } (*State the reasons.*)
3.

(*Signature of counsel.*)

1496.

Formal parts of an appendix (*y*). [Dan. Pr. 1319, 1320.]

Title: as in Form 1494.

APPENDIX.

Set out the documents: as in the following scheme (*z*) *:*

I. *The Pleadings:*

1. Statement of claim delivered by the appellants on the —— day of ——, 188—.
2. Statement of defence delivered by the respondent C. D. on the —— day of ——, 188—.
3. Statement of defence delivered by the respondent G. H. on the —— day of ——, 188—.
4. Statement of reply delivered by the appellants on the —— day of ——, 188—.

II. *The Appellants' Evidence by affidavit, and orally:*

5. Affidavit of A. B., of, *&c.*, filed —— day of ——, 188—.
6. Cross-examination of the said A. B. thereon, on behalf of the respondents: taken ——, 188—, and filed ——, 188—.
7. Deposition of L. M., of, *&c.*, taken ——, 188—, and filed ——, 188—.

III. *The Respondents' Evidence by affidavit, and orally:*

8. Affidavit (*&c.: as above*).

IV. *Documentary Evidence:*

9. Admissions in the cause.
10. Exhibit A.: Indenture of settlement, dated ——, 188—.
11. Exhibit B.: Letter from E. F. to G. H., dated ——, 188—.

(*y*) *The appendix.*—The appellant must prepare a printed appendix consisting of such documents, or parts thereof, used in evidence in the Court below, as may be necessary for reference on the argument of the appeal. He must furnish to the respondent a list of the proposed documents, and the respondent may, if he pleases, print any additional documents, used in evidence in the Court below, which may be necessary for the support of his case on the argument of the appeal: such documents to be paged consecutively with the appendix, in order that the same may be eventually bound up with the appendix, and form one document for the use of the House on the hearing of the appeal. A proof copy of the appendix must be furnished by the appellant's solicitor to the respondent's solicitor, and a proof copy of the additional documents must be furnished by the respondent's solicitor to the appellant's solicitor. Ten copies of the appendix, as soon as printed, must be delivered to the respondent's solicitor, and ten copies of the additional documents to the appellant's solicitor. The costs of printing the appendix will, in the first instance, be borne by the appellant, and the costs of printing the additional documents by the respondent; but these costs will ultimately be subject to the decision of the House with regard to the costs of the appeal: Directions for Agents, June, 1883, 22—24.

(*z*) The order in which the documents should be printed in the appendix will

V. *Judgments [or, Orders] made in the cause:*

12. Judgment [*or*, order] of the High Court of Justice, dated —— day of ——, 188—.
13. Judgment [*or*, order] of Her Majesty's Court of Appeal (England), dated —— day of ——, 188—, made on appeal from the last-mentioned judgment [*or*, order].

1497.

Petition for leave to amend petition of appeal, and lodge supplemental case. [Dan. Pr. 1318.]

Title and address: as in Form 1484.

The humble petition of the appellant.

Showeth:

That your petitioner, on the —— day of ——, 18—, presented to your lordships his petition and appeal: complaining of an order of Her Majesty's Court of Appeal (England), dated the —— day of ——, 18—.

That your petitioner has duly lodged his case and appendix in support of such appeal; and has set down his said petition and appeal for hearing [*or as may be*].

That since lodging the said case and appendix, a further order has been made by the said Court of Appeal, dated the —— day of ——, 18—, touching, amongst other things, the payment of the costs reserved by the said order of the —— day of ——, 18—.

That your petitioner is advised to appeal to your lordships against the said order of the —— day of ——, 18—; and is therefore desirous of amending his said petition of appeal, by including therein the said order of Her Majesty's Court of Appeal, dated the —— day of ——, 18—.

Your petitioner therefore humbly prays, that your lordships will be pleased to grant to your petitioner leave to amend his said petition of appeal, by including therein the said order of the —— day of ——, 18—; and that your petitioner may have leave to lodge a supplemental case relative to such amendment.

And your petitioner will ever pray.

X. Y.,
Agent for the petitioner.

---

depend upon the circumstances of the particular case. The scheme set out in Form 1496 is suggested as a convenient arrangement. The appendix should be preceded by an index of its contents: in which should be set forth a short description of each document, and the page where it can be found; as thus: "Statement of claim of the appellants, 1"; "Statement of defence of the respondents, 8." The appendix must be paged throughout; and each document should be concisely described: either in the heading, or in a marginal note opposite the commencement. Where a document extends over more than one page of the appendix, its short description should be repeated, in a corner note, at the top of the next and any continuous pages.

1498.

Notice of intention to present petition. [Dan. Pr. 1318.]

(*Same as* Form 1485.)

1499.

Petition for leave to revive appeal, on death of appellant. [Dan. Pr. 1321.]

Title and address: as in Form 1484.

The humble petition of A. B., of (*residence and addition*), and C. D., of, *&c.*

Showeth:

That on the —— day of ——, 188—, E. F., the appellant above named, presented his petition of appeal to your lordships: complaining of (*State what: see* Form 1497).

That the respective cases of the appellant and respondent were duly lodged, and the cause was set down for hearing before your lordships [*or as may be*].

That the said E. F. departed this life on or about the —— day of ——, 188—: having first duly made and published his last will and testament in writing, whereby he appointed your petitioners executors thereof: who duly proved the same in the Probate Division of Her Majesty's High Court of Justice on the —— day of ——, 188—; and that your petitioners are now the legal personal representatives of the said E. F. deceased.

That on the —— day of ——, 188—, an order was made by Her Majesty's High Court of Justice, that the proceedings in the said cause should be carried on and prosecuted by your petitioners against the defendants, in like manner as such proceedings might have been carried on and prosecuted by the said E. F., if he had not died [*or as may be*]: and a copy of the said order is annexed to this petition.

Your petitioners therefore humbly pray your lordships, that this appeal may be carried on and prosecuted in your lordships' House by your petitioners, in like manner as the same might have been carried on and prosecuted by the said E. F. if he had not died.

And your petitioners will ever pray, &c.

A. B.
C. D.
X. Y., agent for the petitioners (*a*).

1500.

Notice of intention to present petition.

(*Same as* Form 1485.)

(*a*) The petition must be signed by the petitioners and their agent.

1501.
Supplemental case (*b*).
[Dan. Pr. 1322.]

Title: as in Form 1494.

Supplemental case of the appellant [*or as may be*].

(*The case should state the material proceedings since the lodgment of the original case, which have rendered the supplemental case necessary. Where the petition of appeal has been amended by including a further judgment or order, the supplemental case should conclude as in* Form 1494.)

1502.
Petition of the appellant, for leave to withdraw appeal, on payment of the respondent's costs.
[Dan. Pr. 1318.]

Title and address: as in Form 1484.

The humble petition of the appellant,

Showeth:

That on the —— day of ——, 188—, the appellant presented his petition and appeal to your lordships: complaining of (*State what: see* Form 1488).

That the appeal has not yet been set down for hearing before your lordships [*or as may be*].

That the appellant now proposes to withdraw the said appeal: paying to the respondent the costs incurred by him, as they shall be taxed.

May it therefore please your lordships to permit the appellant to withdraw his said appeal: he paying to the respondent his costs in the said appeal, as the same shall be taxed by the proper officer of your lordships' House.

And your petitioner will ever pray, &c.

X. Y.,
Agent for the petitioner.

1503.
Notice of intention to present petition.
[Dan. Pr. 1318.]

(*Same as* Form 1485.)

1504
Petition of the appellant, for leave to withdraw appeal, without costs, by consent (*c*).
[Dan. Pr. 1318.]

Proceed as in Form 1502, *to the end of paragraph* 1.

That the petitioner and respondent having lodged their printed cases,

(*b*) Where any party or parties to an appeal die pending the same, subsequently to the printed cases having been lodged, and the appeal is revived against his or her representative or representatives, as the person or persons standing in the place of the person or persons so dying as aforesaid: or where any person or persons, being party or parties in the Court below, have been omitted to be made a party or parties in the appeal, and shall, by leave of the House, upon petition or otherwise, be added as a party or parties to the said appeal, after the printed cases in such appeal shall have been lodged: a supplemental case must be lodged by the party obtaining the order, stating the order or orders made by the House: Standing Ord. VIII.

(*c*) For form of consent by respondent's solicitor, see Form 1486.

the said appeal was set down for hearing before your lordships [*or as may be*].

That it has since been agreed between your petitioner and the respondent that the said appeal shall be withdrawn: each party paying the expenses respectively incurred by them in the said appeal.

Your petitioner therefore humbly prays your lordships, that the said appeal may be withdrawn accordingly, without costs; or that your lordships will do otherwise in the premises, as to your lordships shall seem meet.

And your petitioner will ever pray, &c.

X. Y.,
Agent for the petitioner.

1505.

Motion paper to make an order of the House an order of the High Court of Justice (*d*). [Dan. Pr. 1327.]

Formal parts: see Form 36.

To move on behalf of the plaintiff [*or as may be*], that the order of the House of Lords, dated the ——, 188—, on the petition and appeal of the defendant [*or as may be*], from the judgment [*or*, order] in this action, dated the ——, 188—, may be made an order of this Court.

The order accompanies.

1506.

Request that Taxing officer will tax bill of costs (*e*). [Dan. Pr. 1331.]

In the House of Lords.

Between A. B. . . . . Appellant,
C. D. . . . . Respondent.

A copy of this bill of costs was on the —— day of —— served upon A. B., the agent for the respondent [*or as may be*], and we hereby request that an appointment may be made to tax the same.

Dated the —— day of ——, 188—.

C. D.
Agent for the Appellant [*or as may be*].

To the Taxing Officer of the House of Lords.

(*d*) For form of order, see 2 Seton, 1619, No. 15. For cases in which it is proper to make an order of the House an order of the Court, see *Ibid.*, 1620.

(*e*) As to taxation of costs, see Standing Ord. X.; Directions for Agents, June, 1883, 37—40; Forms and Standing Orders, &c., App. E. As to costs generally, see Dan. Pr. 1327—1330; Morgan and Wurtzburg, 149—157, 778, 781. For form of notice to respondent of application to deal with 200*l.* deposited as security under Standing Ord. IV., see Forms and Standing Orders, &c., June, 1883, App. D.

CHAPTER XXI.

PROCEEDINGS IN PARTICULAR ACTIONS.

(*Dan. Pr.*, pp. 1333—1537, cccci.—ccccviii.)

SECTION I.—PROCEEDINGS IN AN ACTION FOR PARTITION (*a*).

(*Dan. Pr.*, pp. 1333—1361, cccci.)

(1.) *Partition by Commissioners* (*b*).

1507.

Præcipe for a commission of partition (*bb*). [Dan. Pr. 1338.]

(*Title and reference to the record.*)

Seal, in pursuance of order dated the —— day of ——, 188—, a commission of partition, directed to (*Insert the names of the commissioners*). Returnable (*Insert date for return*).

Dated the —— day of ——, 188—.

(*Name, &c., of solicitor or party issuing the writ.*)

(2.) *Partition in Chambers* (*c*).

1508.

Chief Clerk's certificate of result of a partition in chambers. [Dan. Pr. 1345.]

(*Title and reference to the record.*)

Formal parts: see Form 1410.

1. Such of the freehold lands and hereditaments devised by the will of S. S. F., deceased, the testator in the pleadings named, as are now held in common, consist of the particulars set forth in the schedule hereto.

The evidence produced, *&c.*

(*a*) As to partition generally, see 2 Seton, 1004—1030; 2 L. C. Eq. 419 *et seq.*; Walker on Partition; Foster on Joint Ownership; Lawrance on Partition; Morgan, 289—293; The Partition Act, 1868 (31 & 32 Vict. c. 40); The Partition Act, 1876 (39 & 40 Vict. c. 17). As to costs in partition actions, see Morgan & Wurtzburg, 240—244; 2 Seton, 1018.

(*b*) For the practice as to partition by commissioners, see Dan. Pr. 1336—1344; 2 Seton, 1027, 1028; and for forms of orders, 2 Seton, 1021—1027. This practice is now almost obsolete: being superseded by the present method of working out the partition in Chambers: see *Spike* v. *Harding*, 7 Ch. D. 871, 876: 26 W. R. 420; Dan. Pr. 1336; Seton, 1027. It has, therefore, not been deemed useful to give, in the present edition, the forms applicable to a partition under a commission; especially as a full collection will be found in the 3rd ed., Nos. 1511—1526.

(*bb*) R. S. C. App. G. No. 18.

(*c*) For the practice as to partition in Chambers, see Dan. Pr. 1344 *et seq.*; 2 Seton, 1027. For form of order directing such partition, subject to inquiries, see Seton, 1019, No. 1; and on further consideration, *Ibid.*, No. 2.

2. There is not any sum due to the plaintiffs in respect of rents and profits of the said lands and hereditaments so held in common, or any of them.

The evidence produced, *&c.*

The said lands and hereditaments have been partitioned and allotted: having regard to the declaration contained in the said judgment. The lands and hereditaments so partitioned and allotted are delineated on the plan marked A.; verified by the affidavit of J. H., filed ——, 18—, and which plan is annexed to, and is to be filed with, this certificate.

One moiety of the said lands and hereditaments has been allotted to the uses of the indenture of the 13th August, 1863, in the said judgment mentioned; and such moiety consists of the particulars set forth in the first part of the schedule hereto; and is distinguished on the said plan by a blue colour.

The other moiety of the said lands and hereditaments has been allotted to the uses of the will of S. S. F., in the said judgment named; and such moiety consists of the particulars set forth in the second part of the schedule hereto; and is distinguished on the said plan by a red colour.

A thorn fence is to be erected across the field called Little Rakes, numbered 715 in the schedule hereto, from the point marked A. to the point marked C. on the said plan, in order that such fence may divide the portion of the said field comprised in the first part of the said schedule, and coloured blue on the said plan, from the portion thereof comprised in the second part of such schedule, and coloured red on the said plan. The persons to whom the lands and hereditaments comprised in the first part of the said schedule have been allotted, as aforesaid, are to bear one moiety of the expense of erecting the said fence, and are for ever hereafter to maintain so much of the said fence as, when erected, will extend from the point marked A. on the said plan, to the point marked B. thereon. The persons to whom the lands and hereditaments comprised in the second part of the said schedule have been allotted, as aforesaid, are to bear the other moiety of the said expense, and are for ever hereafter to maintain so much of the said fence as, when erected, will extend from the point marked B. on the said plan to the point marked C. thereon.

The evidence produced, *&c.*

A conveyance of one moiety of the said lands and hereditaments to the uses of the said will of the said S. S. F., and a conveyance of the other moiety thereof to the uses of the said indenture of the 13th August, 1863, have been settled. Such conveyances consist of two parts of an indenture intended to be made between the plaintiffs C. R., and E. his wife, of the first part, the defendant A. E. F., of the second part, and A. H., of W., gentleman, of the third part; and each of such parts is dentified by my signature in the margin of the engrossment thereof.

The evidence produced, *&c.*

SCHEDULE.

First Part.

Number on plan.	Name of field.	Quantity.

Second Part.

(*Repeat as above.*)

(3.) *Proceedings under the Partition Acts*, 1868, 1876 (*e*).

1509. Chief Clerk's certificate of result of inquiry as to persons interested (*f*). [Dan. Pr. 1355.]

Formal parts : see Form 1410.

The persons interested in or entitled to the hereditaments in the pleadings mentioned, and the shares and proportions in which, and the estates and interests for which, they are so interested or entitled, are as follows :

The plaintiff G. H. is entitled to one moiety thereof.

Subject to the incumbrances executed by them on their shares, the persons entitled to the other moiety are as follows :

The plaintiff I. K. is entitled for his life to one-half part of such moiety ; and any children he may leave at his decease are entitled in remainder to such half part in equal shares as tenants in common.

The said I. K. has at present —— children only : namely, the plaintiffs (*Naming them*).

The plaintiff L. M. is entitled for her life to the other half of such moiety ; and any children she may leave at her decease are entitled in remainder to such half part in equal shares as tenants in common. The

(*e*) See 31 & 32 Vict. c. 40 ; 39 & 40 Vict. c. 17 ; Dan. Pr. 1346—1361 ; 2 Seton, 1004—1019 ; Morgan, 179—186. As to the right to partition, see 2 Seton, 1012—1015. As to request for sale, *Ibid.*, 1015, 1016 ; 31 & 32 Vict. c. 40, ss. 3—5 ; 39 & 40 Vict. c. 17, s. 6. As to parties to actions for partition, service, and further consideration, see 2 Seton, 1016—1018 ; 31 & 32 Vict. c. 40, s. 9 ; 39 & 40 Vict. c. 17, ss. 3, 4. As to account of rents against one of several tenants in common, see 2 Seton, 1018.

(*f*) For forms of order directing inquiries as to the persons interested, and for sale, see 2 Seton, 1004, 1005, Nos. 1, 3 ;—giving the parties liberty to bid, *Ibid.*, 1004, No. 2 : 1005, No. 4 : 1007, No. 12 ;—declaring rights of parties at the hearing and directing a sale, *Ibid.*, 1004, No. 2 ;—for sale out of Court, *Ibid.*, 1009, Nos. 15, 16 ;—for sale of part and partition of part, *Ibid.*, 1011, No. 17 ;—alternative order for sale or partition, *Ibid.*, 1011, No. 18.

said plaintiff L. M. has at present —— children only: namely, the plaintiffs (*Naming them*).

By indenture dated the —— day of ——, 188—, and made between (*Here set out the particulars of any incumbrances executed by parties on their shares*).

The evidence produced, *&c.*

The parties so interested or entitled are all parties to this action, or have been served with notice of the said judgment.

1510.

Notice of motion or summons to dispense with service of notice of judgment and for advertisements (*g*). [Dan. Pr. 1356.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*]: that service of notice of the judgment in this action dated the —— day of ——, 188—, on G. H., of, *&c.*, and M. N., of, *&c.*, may be dispensed with; and that instead thereof advertisements may be published at such times and in such manner as the Court shall direct, calling upon the said G. H. and M. N. and all persons (who have not been served with notice of the said judgment) claiming to be interested in the real estate in the said judgment mentioned, by, through, or under the said G. H. and M. N., or either of them, to come in and establish their respective claims in respect thereof before the Judge in Chambers within such time as shall be limited by such advertisements.

1511.

Advertisement pursuant to order dispensing with service (*h*). [Dan. Pr. 1357.]

Pursuant to a judgment of the High Court of Justice, Chancery Division, England, in an action of B. *v.* B., 188—, B. No. ——, dated the —— day of ——, 188—, and of an order in the said action dated the —— day of ——, 188—, dispensing with service of notice of the said judgment upon the persons hereinafter named, that is to say, on G. H., and any person claiming by, through, or under him: the said G. H., and any person claiming by, through, or under him, and all persons claiming to be interested in the property to which this action relates who are not parties to the said action, or have not been served with notice of the said judgment, are hereby required to come in and establish their respective claims in respect thereof at the Chambers of Mr. Justice ——, Royal Courts of Justice, Strand, London, on or before the —— day of ——, 188—, or in default thereof they will, after the expiration of the time so limited, be bound by the proceedings in the said action as if they had been served with notice of such judgment.

(Monday), the —— day of ——, 188—, at —— of the clock (*&c.: Conclude as in* Form 1165).

(*g*) See 39 & 40 Vict. c. 17, s. 3. For form of order, see 2 Seton, 1008, No. 13.

(*h*) See 39 & 40 Vict. c. 17, s. 3. For form of advertisement, see *Barnsdall* v. *Barnsdall*, 1880, B. No. 3997; London Gazette, 27th June, 1884.

1512. Chief Clerk's certificate of result of an advertisement, and of parties interested. [Dan. Pr. 1356.]

Formal parts: see Form 1410.

Pursuant to the order dated the —— day of ——, 188— (*Order dispensing with service on* W. B. K., G. K., *and* E. H., *and directing advertisements: see* Form 1510), the advertisements thereby directed have been published in the following colonial newspapers of the year 188—, namely (*Names of newspapers, and dates of publication*).

W. K., an infant, the heir-at-law of W. B. K., in the said order named, and the said E. H. and her husband T. H., have since come in and established their respective claims in respect of the property to which this action relates, and have obtained leave to attend the proceedings as above stated.

The said G. K. has not, nor has nor have any person or persons claiming through or under him, come in and established a claim in respect of the said property; and neither the said G. K., nor any person or persons claiming through or under him, as aforesaid, can be found.

The several persons named in the first column of the following tabular statement are entitled to, or interested in, the hereditaments in the writ of summons mentioned, as tenants in common in fee simple, in the shares and proportions set opposite their names respectively in the second column of such statement (that is to say):

Names of persons entitled.	Share or proportion of the entirety of the hereditaments.	Derivation of title.
(1) The plaintiffs J. S. and R. S., spinsters, in equal shares.	Five twentieths.	As coheiresses-at-law of their father S. S., who was the only child of A. S., a daughter of E. K., the daughter of, and named in the will of, the testator J. S.
(2) The defendants C. S. and Elizabeth his wife, in her right.	Seven twentieths.	As to five twentieths as purchaser from J. A., the heir-at-law of his daughter P. A., of the share of her mother E. A., who was a child of the said E. K.; and as to two twentieths as devisee under the will of S. K. deceased, a son of the said E. K., and the purchaser of the share of his brother W. S. K.
(3) S. K., or J. W. his incumbrancer.	Two twentieths.	As devisee under the will of his father, the said S. K.
(4) G. K.	The like.	The like.
(5) T. H. and E. his wife, in her right.	The like.	The like.
(6) W. K., an infant.	The like.	As heir-at-law of W. B. K., who was a devisee under the will of his father, the said S. K.

All the parties entitled to, or interested in, the said hereditaments are parties to this action, or have been served with notice of the judg-

ment, except the said G. K., or the person or persons claiming through or under him, who as above stated cannot respectively be found.

The evidence, *&c.*

1513.

Summons for an order for sale (*i*). [Dan. Pr. 1355, 1357.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*]: that the real estate mentioned in the judgment in this action may be sold with the approbation of the Judge [*If after order dispensing with service, add:* subject to the several provisions contained in the 4th section of the Partition Act, 1876]; And that the money to arise by such sale may be paid into Court to the credit of (*&c.: State the account to which the purchase-moneys are directed to be paid by the judgment*), subject to further order.

1514.

Advertisement of intended distribution of proceeds of sale, where an order has been made dispensing with service (*j*). [Dan. Pr. 1357.]

Whereas by an order of the High Court of Justice made in a certain action in which A. B. and others are plaintiffs, and C. D. and others are defendants, dated the —— day of ——, 188—, it was ordered that the hereditaments situate at ——, in the parish of ——, in the county of ——, in England, which J. S., formerly of ——, and afterwards of ——, by his will gave and devised equally between the children of his daughter E. K., who might be living at the death of the wife of the said J. S., should be sold; and whereas in pursuance of the said order the said hereditaments have been sold, and the money produced by such sale has been paid into the said Court to the credit of the said action: Notice is hereby given that G. K., one of the children of the said E. K., who some time resided at —— aforesaid, and all persons claiming through or under him to be interested in the said hereditaments, or the proceeds thereof, are to come in before Mr. Justice ——, at his Chambers, Royal Courts of Justice, Strand, London, in England, on or before the —— day of ——, 188—, and establish his or their claim to participate in such money; and that, in default thereof, the said money will on or after the —— day of ——, 188—, be distributed in such manner and among such parties as to the Court shall appear to be most in accordance with the rights of the persons whose claims to participate therein have been established.

(Monday), the —— day of ——, 188—, at —— of the clock (*&c.: Conclude as in* Form 1165.)

(*i*) For form of order, see 2 Seton, 1008, No. 14. No order will be necessary if the Chief Clerk's certificate finds that all the parties interested are parties to the action: see form of judgment directing inquiries and for sale, 2 Seton, 1004, No. 1. The Court has no jurisdiction under the Partition Act, 1868 (31 & 32 Vict. c. 40), to direct a sale out of Court, where some of the persons interested are under disability: *Strugnell* v. *Strugnell*, 27 Ch. D. 258: 33 W. R. 30. As to the proceedings where service has been dispensed with, and an order for sale is made, see 39 & 40 Vict. c. 17, s. 4. The evidence to be read on the order for sale will consist of the judgment, the Chief Clerk's certificate, and the order (if any) dispensing with service.

(*j*) See 39 & 40 Vict. c. 17, s. 4.

Section II.—Proceedings in an Action to settle Boundaries (*k*).

(*Dan. Pr.*, pp. 1361—1363.)

1515. *Præcipe* for a commission to settle boundaries (*l*). [Dan. Pr. 1362.]

(*Title and reference to the record.*)

Seal, in pursuance of order dated the —— day of ——, 188—, a commission to settle boundaries.

Returnable the —— day of ——, 188—.

Dated the —— day of ——, 188—.

(*Name, &c., of solicitor or party issuing the writ.*)

Section III.—Proceedings in an Action to assign Dower (*m*).

(*Dan. Pr.*, pp. 1363—1365.)

1516. Indorsement on writ of summons (*n*). [Dan. Pr. 1363.]

(*See* Form 282*a*.)

Section IV.—Proceedings in an Action for Specific Performance (*o*).

(*Dan. Pr.*, pp. 1365—1385, cccci., ccccii.)

1517. Indorsement on writ of summons (*p*). [Dan. Pr. 1367.]

(*See* Form 213.)

(*k*) See 2 Seton, 1033. For forms of judgments for commissions to issue, *Ibid.*, 1031, Nos. 1, 2. It seems to be now more usual to direct an inquiry at Chambers, than to issue a commission to ascertain boundaries: *Spike* v. *Harding*, 7 Ch. D. 871: 26 W. R. 420.

(*l*) See R. S. C. App. G., No. 18. A commission to settle boundaries is nearly in the same form as, and is made out, issued, executed, and returned in the same manner as, a commission of partition: Dan. Pr. 1362. As to the forms applicable to partitions by commissioners, see note (*b*), at p. 645.

(*m*) As to dower, and the jurisdiction of the Court in respect thereto, see Sugd. Stat. 244 *et seq.*; 2 Seton, 683—686; Tudor, L. C. Conv. 68 *et seq.*; Story, Eq. Jur. s. 624 *et seq.*; Smith's Comp. 220 *et seq.*; 2 L. C. Eq. 463 *et seq.* As to costs, see Morgan & Wurtzburg, 217, 218.

(*n*) See R. S. C. App. A., Part III., s. 4. For forms of judgment, see 2 Seton, 681, 682. Dower may be assigned either in Chambers, or by directing a commission to issue: Dan. Pr. 1364. A commission to assign dower is nearly in the same form, and is made out, executed, and returned in the same manner as a commission of partition: Dan. Pr. 1364. As to the Forms applicable to a partition by commissioners, see note (*b*), at p. 645.

(*o*) As to specific performance generally, see 2 Seton, 1284—1333; 2 Dart, 981—1141; Fry on Specific Performance. As to the nature of the jurisdiction exercised by the Court, see 2 Seton, 1285, 1286. As to what agreements may be enforced, *Ibid.*, 1286—1288. As to the grounds of defence, *Ibid.*, 1288—1296. As to partial specific performance and damages, *Ibid.*, 1296, 1297.

(*p*) See R. S. C. App. A., Part. III., Sect. I., No. 9. For form of statement of claim, see R. S. C. App. C., Sect. II., No. 12. For form of defence, see R. S. C. App. D., Sect. II., No. 1. For forms of judgment declaring plaintiff's right to relief, see 2 Seton, 1284, 1285, Nos. 1—5; — directing inquiries as to title, *Ibid.*,

1518.

Notice of motion or summons for an inquiry as to the title (*q*). [Dan. Pr. 1373.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff, that an inquiry may be directed whether a good title can be made to the hereditaments comprised in the agreement dated the —— day of ——, 188—, in the statement of claim mentioned [*or as may be*]; and if a good title can be made, then a further inquiry when it was first shown that a good title can be made.

1519.

Summons to proceed on judgment or order directing inquiry as to title. [Dan. Pr. 1376.]

(*See* Form 1159.)

1520.

Statement of the points in dispute, for chambers (*r*). [Dan. Pr. 1376.]

(*Short title and reference to the record.*)

Statement of the points in dispute between the plaintiff and defendant, as to the title to the hereditaments comprised in the agreement dated ——, 188—, in the statement of claim mentioned [*or as may be*], and by the judgment [*or*, order] dated ——, 188—, directed to be inquired into.

A. Plaintiff's (*s*) requisitions, dated ——, 188—.	B. Defendant's (*s*) answers, dated ——, 188—.	C. Plaintiff's (*s*) replies, dated ——, 188—.
1.	1.	1.
2.	2.	2.
3.	3.	3.

1521.

Memorandum of direction to the conveyancing counsel, to advise as to the title. [Dan. Pr. 1377.]

Formal parts: see Form 1202.

Mr. Justice —— has directed that the opinion of the conveyancing

1297, 1298, Nos. 1—5;—where title accepted, established, or disapproved, *Ibid.*, 1303, 1334;—where compensation or abatement from purchase-money allowed, *Ibid.*, 1314, 1315;—in action for specific performance of agreements for leases or underleases, *Ibid.*, 1318—1321;—in actions as to agreements for special purposes, *Ibid.*, 1323—1327.

(*q*) See R. S. C. Ord. XXXII. 6; XXXIII. 2; 2 Seton, 1299, 1300. For forms of inquiry directed by judgment, see 2 Seton, 1297, 1298, Nos. 2—5; and see as to inquiry as to title, *Ibid.*, 1299, 1300;—as to the title to be made, *Ibid.*, 1300, 1302;—as to when title may be made, *Ibid.*, 1302;—as to when title first shown, *Ibid.*, 1303;—as to time for completion, *Ibid.*, 1303.

(*r*) Statements of this description can ordinarily be copied most conveniently for use on brief paper briefwise.

(*s*) Or as the fact may be.

counsel in rotation [*or as may be* (*t*)] be procured as to (*State the matter referred; as thus:*

whether a good title is deduced by the accompanying abstract, identified by my initials thereon, to the hereditaments in the order dated the —— day of ——, 188—, mentioned).

1522.

Chief Clerk's certificate of the result of an inquiry as to the title. [Dan. Pr. 1377.]

Formal parts: see Form 1410.

1. *Where a good title is shown:*

A good title can be made to the hereditaments comprised in the agreement dated the —— day of ——, 188—, in the statement of claim mentioned (*If subject to any act being done, or other qualification, state same*).

It was first shown on the —— day of ——, 188—, that such good title could be made [*or as may be, according to the form of the inquiry directed*].

The evidence produced, *&c.*

2. *Where a good title is not shown:*

A good title cannot be made (*&c.: as above, to* mentioned; *and state the points on which the title is defective*).

The evidence produced, *&c.*

1523.

Further certificate of amount due to vendor, and of settlement of draft conveyance (*u*). [Dan. Pr. 1379.]

Formal parts: see Form 1410.

Interest at the rate of £— per cent. per annum, from the —— day of ——, to the date of this certificate on the sum of £A., the purchase-money for the hereditaments comprised in the agreement dated, *&c.*, in the statement of claim mentioned, amounts to the sum of £B., after deducting income tax.

The plaintiff has received rents and profits of the said hereditaments since the —— day of ——, to the amount of £C.; and he has paid, or is entitled to be allowed, on account thereof, sums to the amount of £D., leaving a balance due from him of £E. on that account.

The particulars of the above receipts and payments appear in the account marked A., verified by the affidavit of the plaintiff, filed ——, 188—, and which account is to be filed with this certificate.

The plaintiff's costs of this action have been taxed by the Taxing Master at the sum of £F. (*v*).

(*t*) Where the reference is made to any one in particular of the conveyancing counsel, under R. S. C. Ord. LI. 13, see note (*b*) to Form 1202. For note of name of conveyancing counsel in rotation, see Form 1203.

(*u*) For forms of judgments for specific performance, to which the above certificate would be applicable, see 2 Seton, 1303, No. 1: 1304, No. 4: 1306, No. 11. As to interest, income tax, occupation and other rent, outgoings, wilful default, and deterioration, *Ibid.*, 1308, 1309; Sugd. V. & P. 848, 870; Dart, 624—654; Fry, 542, 585—613; and as to compensation or abatement, 2 Seton, 1314—1317; Sugd. V. & P. 828; Dart, 649—655.

(*v*) See Dan. Pr. 1379. As to the costs of actions for specific performance, see

The said £A., £B. and £F. make together £G.: wherefrom being deducted the said £E., there remains due to the plaintiff the sum of £H.

A proper conveyance of the said hereditaments from the plaintiff to the defendant has been settled: consisting of an indenture intended to be made between the plaintiff of the one part, and the defendant of the other part; and the engrossment whereof is identified by my signature in the margin thereof.

The evidence produced, *&c.*

1524.

Notice of motion or summons to fix a time for payment of amount due to the vendor (*w*). [Dan. Pr. 1380.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff:

1. That the defendant A. B. may be ordered, on the —— day of ——, 188—, between the hours of twelve and one of the clock in the afternoon, to pay to the plaintiff, C. D., at the chapel of the Rolls, in the Rolls' Yard, Chancery Lane, London [*or as may be*], the sum of £H., by the Chief Clerk's certificate dated the —— day of ——, 188—, certified to be due to the plaintiff for principal, interest, and costs as therein mentioned, together with interest at the rate of £—— per cent. per annum on £A., part thereof, from the last-mentioned day to the day of payment; and also the plaintiff's costs of, and occasioned by, this application: such costs to be taxed by the Taxing Master, in case the parties differ.

2. And that upon such payment being made, the plaintiff may execute and deliver to the defendant the indenture of conveyance from the plaintiff to the defendant in the said Chief Clerk's certificate mentioned; and deliver to the defendant, upon oath, all deeds and writings in his custody or power relating to the hereditaments in the said Chief Clerk's certificate mentioned [*or as may be*].

1525.

Originating summons, under the Vendor and Purchaser Act, 1874, s. 9, for the decision of the judge on questions of title, &c. (*x*). [Dan. Pr. 1382.]

In the High Court of Justice, Chancery Division. 188—. B. No. ——.

(*Name of Judge.*)

In the matter of a contract dated ——, 188—, for the

Dan. Pr. 1191—1197, 1201; Morgan & Wurtzburg, 250—264; Fry, 393, 394, 426, 478, 487, 501, 519, 581; 2 Seton, 1312—1314.

(*w*) For form of order, see 2 Seton, 1328, No. 1. For form of power of attorney to attend and receive the money, see Form 1537. For forms of affidavit of attendance and non-payment, see Forms 1557, 1558. As to proceedings in default of compliance with the judgment, see 2 Seton, 1327—1333; R. S. C. Ord. XLII. 30.

(*x*) See The Vendor and Purchaser Act, 1874 (37 & 38 Vict. c. 78), s. 9; Clarke & Brett, Conv. Act, &c., 217—219; Harris & Clarkson, Conv. &c., Acts, 175; Wolstenholme & Turner, 15; Dan. Pr. 1382—1385; 2 Seton, 1318. As to costs of applications under the Act, see Morgan & Wurtzburg, 329. For forms of orders, see 2 Seton, 1317, Nos. 1—3. For form of order on an agreed statement, *Ibid.*, 1318, No. 4. It is the practice, in the Chambers of Chitty, J., to require such a statement to be

sale of real [*or*, leasehold] estate, made between A. B. and C. D.

And in the matter of The Vendor and Purchaser Act, 1874 (*y*).

Let (*&c.: Proceed as in* Form 1078 *down to* upon the application of) A. B. [*or*, C. D.], of (*address and description*), that it may be declared that (*State what; as thus:*

the requisitions and objections of the said C. D. in respect of the title to the hereditaments comprised in the above-mentioned contract of sale have [*or*, have not] been sufficiently answered by the vendor; *or*,

the said C. D. is [*or*, is not] precluded by the third of the conditions of sale from making or raising his objection or requisition numbered 1; *or*,

the said C. D. is [*or*, is not] entitled to compensation in respect of (*State what*));

and that a good title to the said hereditaments has [*or*, has not] been shown in accordance with the particulars and conditions of sale; and that the said —— may be ordered to pay the costs of this application.

Section V.—Proceedings in an Action for Foreclosure (*z*).

(*Dan. Pr.*, pp. 1386—1411, ccccii., ccccciii.)

brought in wherever practicable; and so soon as it is left the summons is adjourned by the Chief Clerk, without discussion, for argument before the Judge. If the facts are in dispute, it is the practice in the same Chambers for the Chief Clerk, on the return of the summons, to fix the times for the evidence to be completed; and, when the evidence is closed, to adjourn the summons to the Judge for argument.

(*y*) As to the title of the summons, see 2 Seton, 1318.

(*z*) See Coote on Mortgages; Fisher on Mortgages; 2 Seton, 1035—1137. And see, as to the right to foreclosure, 2 Seton, 1041—1044; — foreclosure where the Crown is interested, *Ib.*, 1044; — defective assurances, *Ib.*, 1046; — sale, *Ib.* 1046—48; — right of redemption, *Ib.*, 1048—49; clandestine mortgages, *Ib.*, 1049; — parties to foreclosure actions, *Ib.*, 1050—51; — parties entitled to redeem, *Ib.*, 1051—53; — copyholds, *Ib.*, 1053; — statute of limitations, *Ib.*, 1053—55; — interest, *Ib.*, 1055—58; — title-deeds, *Ib.*, 1058—59; — costs, *Ib.*, 1059—66; Morgan & Wurtzburg, 221—40. As to rights and liabilities of mortgagor in possession, see 2 Seton, 1073—75; — of mortgagee in possession, *Ib.*, 1075—77; — accounts, *Ib.*, 1077; — annual rests, *Ib.*, 1078—79; — just allowances, *Ib.*, 1079—81; — successive foreclosures, *Ib.*, 1085; — enlarging time, and opening the foreclosure, *Ib.*, 1087—89; — foreclosure absolute, *Ib.*, 1091; — foreclosure of chattels, *Ib.*, 1095—97; — mortgages by factors, *Ib.*, 1097—98; — mortgages of policies, *Ib.*, 1099—1100; — bills of sale, *Ib.*, 1100—1102; — chattels acquired after the mortgage, *Ib.*, 1102; — fixtures, *Ib.*, 1102—4; — mortgages of ships, 1107—13; mortgages to solicitors, *Ib.*, 1115—16; — to trustees, *Ib.*, 1116; — by surety, *Ib.*, 1116—17; — by married woman, *Ib.*, 1117—18; — infant entitled to equity of redemption, *Ib.*, 1118; — mortgages by companies, *Ib.*, 1122—25; — equitable mortgages, *Ib.*, 1130—33; — liens, *Ib.*, 1136—37; — judgments, *Ib.*, 1141—45; — change in interest of mortgagor or mortgagee, *Ib.*, 1145—51; — derivative mortgages, *Ib.*, 1151—55; — consolidation of securities, *Ib.*, 1157—58; — marshalling securities, *Ib.*, 1161—62; — priority and notice, *Ib.*, 1164—67; — registration,

1526.
Indorsement on writ of summons (*a*).
[Dan. Pr. 1388.]

(*See* Form 208.)

1527.
Notice of motion for judgment under 7 Geo. 2, c. 20, s. 2 (*b*).
[Dan. Pr. 1389.]

Formal parts: see Form 38.

on the part of the defendants that, upon the defendants admitting the mortgage securities in the indorsement of claim on the writ of summons [*or*, in the statement of claim] in this action mentioned, and the right and title of the plaintiffs thereunder, such judgment may be entered in this action as might have been entered therein had it been regularly brought to trial.

1528.
Summons to proceed on judgment or order in a foreclosure action.
[Dan. Pr. 1404.]

(*Same as* Form 1159.)

1529.
Affidavit by a mortgagee not in possession of amount due to him under a judgment in a foreclosure action (*c*).
[Dan. Pr. 1404.]

Formal parts: see Form 6.

1. There is due to me upon and by virtue of my mortgage security dated the —— day of ——, 188—, in the judgment [*or*, order] in this action dated the —— day of ——, 188—, mentioned [*or as may be* (*d*)], the sum of £A. for principal money, and the sum of £B. for interest (less

Ib., 1167—68; — possession of title-deeds, *Ib.*, 1168—69; — tacking, *Ib.*, 1169—71; — annuities, *Ib.*, 1173—74; — benefit building societies, *Ib.*, 1177—80; — Welsh mortgage, *Ib.*, 1180.

(*a*) See R. S. C. App. A., Part III., Sect. I., No. 4. For form of statement of claim, see R. S. C. App. C., Sect. II., No. 5. For form of defence, see R. S. C. App. D., Sect. II., Nos. 1 and 2. For forms of judgments for foreclosure, see 2 Seton, 1035—37, Nos. 1—6; for sale, *Ib.*, 1037—39, Nos. 7—10. For forms of inquiries, *Ib.*, 1066—72. For forms of orders for successive redemptions and foreclosures, *Ib.*, 1081—82. For forms of orders for foreclosure of chattels, *Ib.*, 1092—94. For forms of orders in case of mortgages on ships, *Ib.*, 1104—6. For forms of orders in case of equitable mortgages, *Ib.*, 1125—30. As to the proper form of order against the mortgagor for payment, in addition to an order for foreclosure or sale, see *Farrer* v. *Lacy Hartland*, 25 Ch. D. 636: 32 W. R. 384; *Hunter* v. *Myatt*, 28 Ch. D. 181.

(*b*) See 2 Seton, 1045, 1046.

(*c*) For form of order directing account against mortgagee not in possession, see 2 Seton, 1035, No. 1. As to the accounts, see *Ib.*, 1077—81. As to the costs which a mortgagee is entitled to claim against his mortgagor, see 2 Seton, 1059—64; *Bolingbroke* v. *Hinde*, 25 Ch. D. 795: 32 W. R. 427. As to the right of the mortgagor to insist on the account being taken, after judgment directing it, see *Taylor* v. *Mostyn*, 25 Ch. D. 48: 32 W. R. 256; *Loughran* v. *The Chapel House Colliery Co.*, 28 Sol. J. 217.

(*d*) The affidavit should accord with the words of the judgment or order directing the account.

property tax) thereon, computed at the rate of £C. per cent. per annum, from the —— day of ——, 188—, to the —— day of ——, 188—: making together the sum of £D. : exclusive of my costs of this action [*or as may be*].

2. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, lastly say, that I have not, nor has nor have any other person or persons by my order or for my use, received any sum or sums of money for or on account of the hereditaments comprised in my said mortgage security, or any part thereof; nor any security or satisfaction whatsoever for the said principal money and interest respectively, or any part or parts thereof : save and except the said mortgage security [*or as may be*].

1530.

Chief Clerk's certificate of amount due to a mortgagee not in possession. [Dan. Pr. 1404.]

Formal parts : see Form 1410.

1. There is due to the plaintiff [*or as may be*], under and by virtue of his mortgage security in the judgment dated the —— day of ——, 188—, mentioned, the sum of £A. for principal money, and the sum of £B. for interest (less property tax) thereon, at the rate of £C. per cent. per annum, from the —— day of ——, 188——, to the date of this certificate. The said £A. and £B., and the sum of £D., certified by the taxing master to be the amount of the costs of the said plaintiff [*or as may be*] of this action, make together the sum of £E.

2. There will also be due to the plaintiff [*or as may be*] on the —— day of ——, 188—, being the expiration of six calendar months from the date of this certificate, the sum of £F. for half a year's interest (less property tax), at the rate aforesaid, on the said £A. to the said —— day of ——, 188—. The said £E. and £F. make together the sum of £G.

The evidence produced, *&c.*

(Monday), the —— day of ——, 188—, between the hours of twelve and one of the clock in the afternoon, and the Chapel of the Rolls in the Rolls' Yard, Chancery Lane, London, are appointed as the time and place at which the defendant C. D. is to pay the said sum of £G. to the plaintiff A. B. [*or as may be*].

1531.

Affidavit by a mortgagee in possession, verifying his accounts of principal and interest, repairs and rents, without rests (*c*). [Dan. Pr. 1404.]

Formal parts : see Form 6.

1. I have, in the account marked A. now produced and shown to me, according to the best of my knowledge, information, and belief, set forth an account of the several matters hereinafter mentioned, which are inquired after by the judgment [*or*, order] in this action, dated the —— day of ——, 188—

2. I have, in the first part of the said account marked A., set forth a full, true, and particular account of all sums of money which are due to

(*c*) The affidavit must be framed to accord with the language of the judgment or order directing the accounts to be taken. For forms of order directing accounts against a mortgagee in possession, see 2 Seton, 1066, No. 1 ; accounts with rests, *Ibid.*, Nos. 2, 3 ; accounts of rents, and repairs, and lasting improvements, *Ibid.*, 1067, No. 4 ; and see *Houghton* v. *Sevenoaks Estate Co.*, 33 W. R. 341. For form of account, see Form 1532.

me for principal money and interest upon and by virtue of my mortgage security dated the —— day of ——, 188—, in the said judgment [*or* order] mentioned.

If account of repairs and lasting improvements is directed (*f*): 3. I have, in the second part of the said account, set forth a full, true, and particular account of all sums of money paid, laid out, and expended by me in necessary repairs and lasting improvements on the hereditaments comprised in my said mortgage security, and the times when, the names of the persons to whom, and the purposes for which the same were made.

4. I have, in the (third) part of the said account, set forth a full, true, and particular account of all the rents and profits of the said mortgaged hereditaments which have come to my hands, or to the hands of any person or persons by my order, or for my use; and the times when, the names of the persons from whom, on what account, and in respect of what part of the said hereditaments the same have been received, and the times when the same became due; and also a like account of the disbursements, allowances, and payments made by me in respect of the said hereditaments, or the rents and profits thereof, and the times when, the names of the persons to whom, and the purposes for which the same were made.

5. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, lastly say, that save and except as appears in the said account marked A., I have not, nor has nor have any other person or persons by my order or for my use, received or got in any rents and profits of the said hereditaments, nor any money in respect thereof, or of the principal and interest due to me on my mortgage security as aforesaid; and that the said account does not contain any item of disbursement, payment, or allowance, other than such as has actually been disbursed, paid, or allowed as above stated; and that I have not, nor has nor have any other person or persons by my order, or for my use, received any security or satisfaction whatsoever for the amount due to me on balance of the said account, or any part thereof, save and except the said mortgage security [*or as may be*].

1532.

Account (A), referred to in Form 1531 (*g*). [Dan. Pr. 1404.]

A.

(*Short title and reference to the record.*)

This account marked A. was produced and shown to the plaintiff A. B. [*or as may be*], and is the account referred to in his affidavit sworn this —— day of ——, 188—,

before me (*&c.: see* Form 9).

(*f*) Sums expended in necessary repairs will be included under "just allowances," which will be made without any special direction in the judgment: R. S. C. Ord. XXXIII. 8; but for the allowance of sums expended in substantial repairs or permanent improvements there must be an express direction in the judgment: see 2 Seton, 1080.

(*g*) The letters A. B. F. G. H. K. L. and M. used in this form correspond to the like letters used in Forms 1530, par. 1, and 1533.

FIRST PART.—PRINCIPAL AND INTEREST DUE.

18—, August 8. Amount of principal advanced this day	(A)	£2,000	0	0
18—, August 8. Four years' interest thereon at £5 per cent., less property tax . . .	(B)	393	6	8
Total of first part . . .		£2,393	6	8

SECOND PART.—EXPENDITURE IN REPAIRS AND LASTING IMPROVEMENTS.

No. of Item.	Date when paid or allowed.	Names of persons to whom paid or allowed.	For what purpose paid or allowed.	Amount paid or allowed.	Interest thereon at £5 per cent. computed to 8 August, 18—.
				£ s. d.	£ s. d.
1	18—. Nov. 4 .	Thomas Carpenter . .	New barn at farm occupied by John James	190 3 11	
			Interest . .	— — —	9 1 2
	18—. March 3 .	William Styles . .	Rebuilding part of house let to Reuben Marshall . . .	140 13 6	
			Interest . .	—	2 1 0
			Total laid out in repairs, &c. . (F) £	330 17 5	11 16 2
			Add interest . (G)	11 16 2	
			Total of Second Part . . (H) £	342 13 7	

THIRD PART.—RENTS AND PROFITS.

	Receipts.					Disbursements.				
No. of Item.	Date when received.	Names of persons from whom received.	On what account, and in respect of what part of the estate received, and when due.	Amount received.	No. of Item.	Date when paid or allowed.	Names of persons to whom paid or allowed.	For what purpose paid or allowed.	Amount paid or allowed.
	18—.			£ s. d.		18—.			£ s. d.
1	Nov. 11.	John James .	Half year's rent of farm in parish of Ickleton, due Michaelmas last, less income tax . .	296 5 0	1	Jan. 1.	Isaac Thompson	One year's rent charge, due Christmas last . .	15 0 0
					2	,, 16	James Francis .	Land Tax, due ditto . .	6 3 9
2	,, 25.	Thomas Jones .	One quarter's rent of house at Chesterford, due same time .	10 0 0	3	18—. Jan. 5.	Isaac Thompson	Same as No. 1, due Christmas last . .	15 0 0
	18—.							(L) £	36 3 9
3	May 1.	John James .	Same as No. 1, due Lady Day last . .	296 5 0				Balance (M) .	576 6 3
4	June 3.	Thomas Jones .	Same as No. 2, due Lady Day last . .	10 0 0					
			(K) £	612 10 0					£ 612 10 0

1533.

Chief Clerk's certificate of the result of the account (*h*). [Dan. Pr. 1404.]

Proceed as in Form 1530, *to the end of paragraph* 1.

2. The plaintiff [*or as may be*] has laid out sums to the amount of £F., in necessary repairs and lasting improvements on the hereditaments comprised in his said mortgage security. Interest has been computed on the said sums, from the respective times when the same were so laid out to the date of this certificate, at the rate of £C. per cent. per annum, and such interest amounts to £G. The said £F. and £G. make together the sum of £H.

The particulars of the sums so laid out appear in the second part of the account marked A., verified by the affidavit of the plaintiff [*or as may be*] filed ——, 188—, and which account is to be filed with this certificate (*or if the account has been varied, explain in what respect: see* Form 1410).

The evidence produced, *&c.*

The said £E. and £H. make together the sum of £I.

3. The plaintiff [*or as may be*] has received rents and profits of the mortgaged hereditaments to the amount of £K.; and he has paid, or is entitled to be allowed, on account thereof sums to the amount of £L.: leaving a balance due from him of £M. on that account.

The particulars of such receipts and payments appear in the third part of the said account marked A. (*Explain any variations: see* Form 1410).

The evidence produced, *&c.*

The said £M. being deducted from the said £I. leaves a balance due to the plaintiff [*or as may be*] of £N.

There will also be due to the plaintiff [*or as may be*] on the —— day of ——, 188—: being six calendar months from the date of this certificate: the further sum of £O., for half a year's interest at the rate aforesaid, to the said —— day of ——, 188—, on the sum of £P., part of the said £N. [*or as may be*]. The said £N. and £O. make together the sum of £Q.

(Monday), the —— day of ——, 188—, between (*Conclude as in* Form 1530).

1534.

Notice of motion or summons by mortgagor to enlarge time for payment in a foreclosure action (*i*). [Dan. Pr. 1406.]

Formal parts: see Form 38 *or* 43.

on the part of the defendant A. B.

1. That, upon payment by him to the plaintiff of the plaintiff's costs of this application: to be taxed: and upon payment by him to the plaintiff, on or before the —— day of ——, 188—, of the sums of £—— and £——, by the Chief Clerk's certificate, dated the ——, 188—, cer-

(*h*) On taking the account, a fee is payable of 1*s.* for every 100*l.* or fraction of 100*l.* up to 200,000*l.* of the amount found to have been received without deducting any payment: by stamps impressed on or adhesive to the certificate: Ord. as to S. C. Fees, 1884, Sched. No. 72, and p. 13; Ord. as to Fees, &c., July, 1884, p. 9.

(*i*) For forms of order, see 2 Seton, 1085, No. 1; and see *Ibid.*, 1087, 1088; *Forrest* v. *Shore*, 32 W. R. 356; *Webster* v. *Patteson*, 25 Ch. D. 626: 32 W. R. 581.

tified to be due to the plaintiff for interest in respect of his mortgage security therein mentioned, and for his costs of this action, the time for the defendant to redeem the hereditaments comprised in the said mortgage may be enlarged for six calendar months.

2. That upon the aforesaid payments being made, subsequent interest may be computed on the principal money due to the plaintiff on his said security, and his subsequent costs of this action be taxed;

If so: and the account of rents directed by the judgment [*or*, order] dated the —— day of ——, 188—, be continued, and the balance dealt with in the manner therein mentioned;

and the amount due to the plaintiff certified; and a new time and place appointed for the payment thereof to him by the defendant.

3. That in default of such payment, the defendant may be foreclosed.

1535. Notice of motion or summons by the mortgagee, for a new time to be fixed, where he failed to attend at the time appointed for payment (*j*). [Dan. Pr. 1405.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff:

1. That the time for the defendant to redeem the hereditaments in the judgment [*or*, order] dated the —— day of ——, 188—, and Chief Clerk's certificate dated the —— day of ——, 188—, respectively mentioned, may be enlarged until the —— day of ——, 188—.

2. That the said —— day of ——, 188—, between the hours of twelve and one of the clock in the afternoon, and the Chapel of the Rolls, in the Rolls' Yard, Chancery Lane, London, may be appointed as the time and place at which the defendant is to pay to the plaintiff the sum of £——, in the said Chief Clerk's certificate mentioned.

1536. Notice of motion or summons to continue the account, where the mortgagee has received rents between the certificate and the time appointed for payment (*k*). [Dan. Pr. 1407.]

Formal parts: see Form 38 *or* 43.

on the part of the plaintiff:

1. That subsequent interest may be computed on the principal money due to the plaintiff on his mortgage security in the judgment [*or*, order] dated the —— day of ——, 188—, and Chief Clerk's certificate dated the —— day of ——, 188—, respectively mentioned; and that his subsequent costs of this action may be taxed.

2. That the account of rents directed to be taken by the said judgment may be continued, and the balance dealt with in the manner in the said judgment mentioned.

3. That the amount due to the plaintiff for principal, interest, and costs may be certified.

4. That in lieu of the time and amount mentioned in the said Chief Clerk's certificate, a new time may be appointed for the defendant to attend at the Chapel of the Rolls, and pay to the plaintiff the amount which shall be so certified to be due to him.

(*j*) For form of order, see 2 Seton, 1086, No. 2. *Ibid.*, No. 3.

1537.

Power of attorney to attend and receive money certified to be due to a mortgagee. [Dan. Pr. 1404.]

(*Title and reference to the record.*)

I, A. B., of (*residence and addition*), the above-named plaintiff [*or as may be*], hereby appoint E. F., of (*residence and addition*), and G. H., of, &c., jointly and severally, my attorneys, and attorney, to attend on the —— day of ——, 188— (*day fixed for payment*), at the Chapel of the Rolls, in the Rolls' Yard, Chancery Lane, London, and then and there, in my name, and on my behalf, to receive from the above-named defendant C. D. [*or as may be*], the sum of £——, in the Chief Clerk's certificate made in this action dated the —— day of ——, 188—, mentioned, and appearing thereby to be payable to me at the time and place aforesaid. And on receipt of the said sum, for me, and in my name, or in the names or name of my said attorneys or attorney, to give, sign, seal and deliver a valid release and discharge for the same, and a reconveyance of the hereditaments comprised in my mortgage security in the said Chief Clerk's certificate mentioned: free and clear of and from all incumbrances done by me, or any person claiming by, from, or under me (*l*). And I hereby agree to ratify and confirm whatsoever my said attorneys or attorney shall lawfully do, or cause to be done, in or about the premises, by virtue hereof. In witness whereof I have hereunto set my hand and seal this —— day of ——, 188—.

Signed, sealed, and delivered by the above-named A. B. in the presence of, } A. B. (*Seal*).

L. M., of (*residence and addition*).

1538.

Motion paper for final order in a foreclosure action, on default in payment (*m*). [Dan. Pr. 1405.]

Formal parts: see Form 36.

To move on behalf of the plaintiff for a final order of foreclosure against the defendant: he having made default in payment of the redemption money mentioned in the Chief Clerk's certificate dated the —— day of ——, 188—.

The judgment, and Chief Clerk's certificate, and an affidavit of default, accompany.

1539.

Affidavit in support, where the mortgagee attended in person (*n*). [Dan. Pr. 1405.]

Formal parts: see Form 6.

1. On the —— day of ——, 188—, I personally attended and waited at the Chapel of the Rolls, in the Rolls' Yard, Chancery Lane, London, from before the hour of twelve of the clock at noon until after the hour of one of the clock in the afternoon of that day: being the place and time appointed by the Chief Clerk's certificate made in this action, and dated the —— day of ——, 188—: for the purpose of receiving from

(*l*) The words of the judgment or order must be here followed.

(*m*) For form of order, see 2 Seton, 1089, No. 1.

(*n*) The attendance takes place in the vestry room, on the south side of the chapel. A fee of 5*s*. is payable on an attendance to receive mortgage money, and a fee of 10*s*. 6*d*. on payment of mortgage money.

the above-named defendant C. D. [*or as may be*], the sum of £——, in the said Chief Clerk's certificate mentioned.

2. The defendant C. D. did not, nor did any person or persons on his account or behalf, attend at the place and time aforesaid, to pay me the said sum of £——, or any part thereof (*o*).

3. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, lastly say, that I have not, nor has nor have any other person or persons by my order or for my use, received the said sum of £——, or any part thereof; but that the whole of the said sum still remains due and owing to me.

1540.

Affidavit in support, where the mortgagee attended by attorney (*p*). [Dan. Pr. 1405.]

(*Title and reference to the record.*)

We, A. B., of (*residence and addition*), the above-named plaintiff [*or as may be*], and E. F., of (*&c.: as in the power*), severally make oath and say:

First I, the said A. B., for myself say as follows:

1. The signature "——" to the paper writing marked A., now produced and shown to me (*q*), and purporting to be a power of attorney, dated the —— day of ——, 188—, from me to the deponent E. F., and to G. H., is of my proper handwriting. The said paper writing was executed by me on the —— day of ——, 188—.

2. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, say, that I have not, nor has nor have any other person or persons by my order or for my use received the sum of £——, in the Chief Clerk's certificate made in this action, and dated the —— day of ——, 188—, mentioned, and thereby appointed to be paid to me by the above-named defendant C. D. [*or as may be*] on the —— day of ——, 188—, or any part thereof; but that the whole of the said sum of £—— remains due to me.

And I the said E. F. for myself say as follows:

3. Under the authority contained in the paper writing marked A.,

(*o*) At the expiration of the time appointed, the person attending makes and signs, in a book kept for the purpose in the vestry room of the chapel, an entry, to the following effect: (*Date, and title of the action*). I, A. B., of (*residence and addition*), the above-named plaintiff [*or*, I, E. F., of (*residence and addition*), by virtue of a power of attorney from the above-named plaintiff], do hereby certify, that I attended at the Chapel of the Rolls, Rolls' Yard, Chancery Lane, London, from before the hour of twelve of the clock at noon until after the hour of one of the clock in the afternoon of (Monday), the —— day of ——, 188—: being the time and place appointed by the Chief Clerk's certificate dated the —— day of ——, 188—, made in this action, in pursuance of the judgment (*or*, order) dated the —— day of ——, 188—: for the purpose of receiving the sum of £—— from the above-named defendant C. D.; but the said defendant did not, nor did any person or persons on his behalf, attend to pay the same, or any part thereof. Dated this —— day of ——, 188—.

(*Signature.*)

(*p*) See notes to Form 1539.

(*q*) Exhibit the power. For form of memorandum of exhibit, see Form 28.

now produced and shown to me (*qq*), and being the power of attorney hereinbefore mentioned, I, as the attorney of the said plaintiff [*or as may be*], did, on the —— day of ——, 188—, personally attend and wait at the Chapel of the Rolls, in the Rolls' Yard, Chancery Lane, London, from before the hour of twelve of the clock at noon until after the hour of one of the clock in the afternoon of that day: being the place and time appointed by the said Chief Clerk's certificate, dated the —— day of ——, 188—: for the purpose of receiving from the above-named defendant C. D. [*or as may be*], the sum of £——, in the said paper writing marked A., and Chief Clerk's certificate, respectively mentioned; and that the defendant C. D. did not, nor did any person or persons on his behalf, attend at the place and time aforesaid to pay to the plaintiff A. B., or to me, as his attorney, the said sum of £——, or any part thereof; and I did not in fact then receive, and have not since received, the said sum of £——, or any part thereof.

1541.

Summons for sale instead of foreclosure (*r*) [Dan. Pr. 1408.]

Formal parts: see Form 43 *or* 1077.

on behalf of the plaintiff [*or as may be*], that the hereditaments comprised in the mortgage dated the ——day of ——, 188—, in the indorsement on the writ of summons in this action mentioned, may be sold with the approbation of the Judge [*or*, out of Court]; and that all necessary and proper directions may be given for carrying out such sale; and that the conduct of the sale may be committed to the applicant.

Section VI.—Proceedings in Actions for Redemption (*s*).

(*Dan. Pr.*, pp. 1411—1415, cccciii.)

1542.

Indorsement on writ of summons (*t*). [Dan. Pr. 1413.]

(*See* Form 209.)

(*qq*) Exhibit the power. For form of memorandum of exhibit, see Form 28.

(*r*) See 44 & 45 Vict. c. 41, s. 25; Wolstenholme & Turner, 72—74; *Union Bank of London* v. *Ingram*, 20 Ch. D. 463; *Woolley* v. *Colman*, 21 Ch. D. 169: 30 W. R. 769; *South-Western District Bank* v. *Turner*, 31 W. R. 113; *Weston* v. *Davidson*, W. N. (1882), 28; *Wade* v. *Wilson*, 22 Ch. D. 235: 31 W. R. 237; *Charlewood* v. *Hammer*, 28 Sol. J. 710; *Oldham* v. *Stringer*, W. N. (1884), 235: 33 W. R. 251.

(*s*) See Coote on Mortgages; Fisher on Mortgages; 2 Seton, 1035—1137. As to the right of redemption, see 2 Seton, 1048—49; as to parties to redemption actions, *Ib.*, 1050—51; as to parties entitled to redeem, *Ib.*, 1051—53; as to successive redemptions, *Ib.*, 1085; *Smith* v. *Olding*, 25 Ch. D. 462: 32 W. R. 386; *Lewis* v. *The Aberdare and Plymouth Co.*, W. N. (1884), 116; *Platt* v. *Mendel*, 27 Ch. D. 246: 32 W. R. 918.

(*t*) See R. S. C. App. A., Part III., Sect. I., No. 5. For form of statement of claim, see R. S. C. App. C., Sect. II., No. 6. For form of defence, see R. S. C. App. D., Sect. II., No. 2. For forms of judgments, see 2 Seton, 1040, Nos. 11, 12. For orms of inquiry in a redemption action, *Ib.*, 1069, No. 8: 1070, 1071, Nos. 10, 11,

(*Same as* Forms 1534 *to* 1541).

1543. Further proceedings in an action for redemption. [Dan. Pr. 1413—1415.]

1544. Motion paper for order dismissing action, on default in payment (*tt*). [Dan. Pr. 1415.]

Formal parts: see Form 36.

To move on behalf of the defendant that this action may stand dismissed with costs: the plaintiff having made default in payment of the redemption money mentioned in the Chief Clerk's certificate dated the —— day of ——, 188—.

The judgment and Chief Clerk's certificate, and an affidavit of default, accompany.

(*Same as* Form 1539 *or* 1540).

1545. Affidavit in support. [Dan. Pr. 1415.]

Section VII.—Actions and Proceedings relating to Patents (*u*).

(*Dan. Pr.*, pp. 1415—1443, ccccciii.—ccccciv.)

1546. Notice of motion to expunge entry in register of proprietors (*v*). [Dan. Pr. 1421.]

In the High Court of Justice,
Chancery Division.
Mr. Justice ——.

In the matter of the letters patent granted to K. and O. of ——, in the county of ——, bearing date the —— day of ——, 188—, No. ——, for their invention of (*Set out title of invention*),

And

In the matter of the Patents, Designs, and Trade Marks Act, 1883.

Formal parts: see Form 38.

on behalf of A. B., that the entry relating to the above-mentioned letters

16. For form of order dismissing redemption action, *Ib.*, 1090, No. 5. For forms of order for redemption of chattels, *Ib.*, 1093, 1095, Nos. 4, 7. For forms of order for account against the mortgagee of a ship, *Ib.*, 1106, No. 6.

(*tt*) For form of order, see 2 Seton, 1090, No. 5.

(*u*) The practice with respect to patents has been modified by the Patents, Designs, and Trade Marks Act, 1883 (46 & 47 Vict. c. 57), which came into operation immediately after the 31st December, 1883. Rules have been made regulating the procedure under the Act, which are known as "The Patents Rules, 1883." As to patents, see 1 Seton, 338—357. As to costs in patent actions, see Morgan & Wurtzburg, 245—47; 1 Seton, 356—57. As to the practice under 46 & 47 Vict. c. 57, see Lawson's Pr. under Patent Act, 1883; Johnson's Patentee's Manual; Munro on the Act.

(*v*) See 46 & 47 Vict. c. 57, s. 90. For form of order, see 1 Seton, 342.

patent made in the Register of Patents (*w*) on the —— day of ——, 188—, by or on behalf of the said K. and O., or by or on behalf of one of them, be expunged from such register; and that the said K. and O. pay to the applicant his costs of this application, to be taxed by the taxing master.

1547.
Notice of appeal to Law Officer (*x*).

I, A. B., of (*Here insert full address and addition of applicant*), hereby give notice of my intention to appeal to the Law Officer from the decision [*or*, that part of the decision] of the Comptroller of the —— day of ——, 188—, whereby he refused [*or*, allowed] application for Patent [*or*, refused—*or*, allowed—application for leave to amend—*or as the case may be*—Patent] No. (*Insert number of Patent*) of the year 188—.

A. B.

—— day of ——, 188—.

N.B.—This notice has to be sent to the Comptroller General at the Patent Office, London, W.C., and a copy of the same to the Law Officer's Clerk, at Room 349, Royal Courts of Justice, London.

1548.
Indorsement on writ in action for infringement of a patent (*y*). [Dan. Pr. 1426.]

The plaintiff's claim is for an injunction to restrain the infringement of the plaintiff's letters patent dated ——, 188—, No. ——, and for damages, or an account and payment of profits.

1549.
Particulars of breaches (*z*). [Dan. Pr. 1428.]

(*Title and reference to the record.*)

The following are the particulars of the breaches of the letters patent complained of, viz. (*Here state the breaches; as thus:* the defendant, on or about the —— day of ——, 188— [*or*, between —— and ——], at his factory at —— in the county of ——, used machinery in the manufacture of carpets, in imitation of the invention described in the specification of the

(*w*) As to the Register of Patents, see 46 & 47 Vict. c. 57, s. 23.

(*x*) See 46 & 47 Vict. c. 57, ss. 7 (2), (3), (6); 9 (2), (3); 11 (2), (3), (4); 18 (3), (4), (6), (7); The Patents Rules, 1883, 2nd Sched., Form T. The notice must be filed in the Patent Office within fourteen days from the date of the decision appealed against: see Regulations of Law Officers, 1. As to powers of the law officers to examine witnesses, make rules, and award costs, see 46 & 47 Vict. c. 57, s. 38.

(*y*) For another form of indorsement, see R. S. C. App. A., Part III., Sect. IV.; and Form 304. For form of statement of claim, see R. S. C. App. C., Sect. VI., No. 6; and Form 521. For form of defence, see R. S. C. App. D., Sect. VI.; and Form 576. For forms of judgment for injunction restraining infringement, see 1 Seton, 352—354, Nos. 12—14; for forms of inquiry as to damages, *Ibid.*, 355, Nos. 17, 18; Lawson, 332.

(*z*) See 46 & 47 Vict. c. 57, s. 29 (1). The particulars must be delivered with the statement of claim, or, by order of the Court or a Judge, at any subsequent time. For the form in the text, see Chitty's Forms, 214. For other forms, see Munro, 303; Lawson, 336.

etters patent above mentioned [*or*, used the same process for the manufacture of ——, as is described in the specification of the letters patent above mentioned]).

Dated the —— day of ——, 188—.

(*Name and address of Plaintiff's Solicitor.*)

1550.

Particulars of objections to patent (*a*). [Dan. Pr. 1428.]

(*Title and reference to the record.*)

The following are the particulars of the objections on which the defendant relies to impeach the letters patent in the statement of claim herein mentioned, in addition to any which he may be entitled to rely upon without particulars, viz.:

1. That the plaintiff [*or*, alleged inventor] was not the first and true inventor.

2. That the alleged invention was not a new invention.

3. That the alleged invention was not useful to the public.

4. That the principle of the invention claimed by the specification was generally known to manufacturers and scientific men previously to the date of the letters patent.

5. That the alleged invention is the mere application to —— of means previously well known for ——, and is for that and other reasons not proper subject-matter for letters patent.

6. That the alleged invention was published prior to the date of the letters patent —— in the following manner, that is to say (*State the manner*).

7. That the alleged invention was used prior to the alleged invention in the following manner, that is to say (*State the manner*).

8. That the specification purporting to have been filed pursuant to the said letters patent does not sufficiently describe and ascertain the alleged invention, and in what manner the same is to be performed, and does not sufficiently distinguish which of the matters and things therein described the patentee claims to have invented, and which of the same he does not claim to have invented, and admits to be old; and that in other respects the said specification is insufficient, ambiguous, and framed so as to mislead.

1551.

Notice of motion or summons for further and better particulars (*b*). [Dan. Pr. 1430.]

Formal parts: see Form 38 *or* 43.

on behalf of the defendant [*or*, plaintiff], that the plaintiff [*or*, defendant] may, within —— days from the date of the order to be made on this application, deliver to Messrs. ——, solicitors for the defendant [*or*, plaintiff], further and better particulars in writing of the breaches

(*a*) See 46 & 47 Vict. c. 57, s. 29 (2). The particulars must be delivered with the defence, or, by order of the Court or a Judge, at any subsequent time. For forms of particulars, see Chitty's Forms, 214; Munro, 304; Lawson, 337.

(*b*) The application will in general be made by summons: see R. S. C. Ord. LV. 2 (17). For forms of order, see 1 Seton, 349, Nos. 9, 10.

alleged to have been committed by the defendant [*or*, plaintiff], upon which the plaintiff [*or*, defendant] intends to rely at the trial of this action, specifying, by reference to the pages and lines, the parts of the plaintiff's specification in respect of which such alleged breaches have been committed.

Or,

further and better particulars in writing of objections under the —— paragraph of the statement of defence, on which the defendant means to rely at the trial: stating therein the names and addresses of the persons by whom, and the places where, and the dates at and the manner in which, the process of, &c., was known and publicly practised in England before the —— day of ——, 188— (*date of letters patent*).

1552.

Notice of motion or summons for leave to amend particulars (*c*). [Dan. Pr. 1431.]

Formal parts: see Form 38 *or* 43.

on behalf of the plaintiff [*or*, defendant] that the particulars of breaches [*or*, particulars of objections] in this action may be amended in the following particulars (*Set out proposed amendments*).

1553.

Notice of motion or summons for inspection (*d*). [Dan. Pr. 1433.]

Formal parts: see Form 38 *or* 43.

on behalf of the plaintiff [*or*, defendant], that he may be at liberty by himself, his solicitors, and (*e*) scientific witnesses to be named before inspection, at all reasonable times, and as often as requisite, on giving —— days notice to the defendant [*or*, plaintiff], to enter into the business premises of the defendant [*or*, plaintiff], to inspect the process by which the (*article in respect of the manufacture of which the action is brought*) in the pleadings mentioned is [*or*, are] manufactured, and to take, on paying the reasonable charges of the defendant [*or*, plaintiff] for the same, samples of the —— manufactured by the defendant [*or*, plaintiff]; and that the costs of this application may be costs in the action.

1554.

Notice of motion for injunction (*f*). [Dan. Pr. 1438.]

(*See* Form 1621.)

(*c*) The application will in general be made by summons: see R. S. C. Ord. LV. 2 (17). As to amendment of particulars, see R. S. C. Ord. XIX. 7, 8; 46 & 47 Vict. c. 57, s. 29 (5).

(*d*) See 46 & 47 Vict. c. 57, s. 30; R. S. C. Ord. L. 3; *Badische Anilin und Soda Fabrik* v. *Levinstein*, 24 Ch. D. 156: 31 W. R. 913. The application will in general be made by summons: see R. S. C. Ord. LV. 2 (17). For form of notice of motion, see Munro, 307. For forms of order, see 1 Seton, 345, No. 4: 350, No. 11; Lawson, 331. As to inspection and discovery in an action for infringement of a patent, see 1 Seton, 351, 352, and cases there cited; Chitty's Forms, 244, note (*e*).

(*e*) Generally not more than two scientific witnesses will be allowed on an inspection.

(*f*) For forms of order, see 1 Seton, 343, 344, Nos. 1—3.

(*See* Forms 814, 816, 817.)

1555. Notice of motion or summons for trial of issues (*g*). [Dan. Pr. 1440.]

1556. Summons for discovery of names and addresses of customers (*h*). [Dan. Pr. 1441.]

Formal parts: see Form 43 *or* 1077.

on behalf of the plaintiff, that the defendant do, within four days after service of the order to be made on this application, make and file an affidavit or affidavits stating the number of —— machines made or caused to be made by him since the —— day of ——, 188—, the date of the plaintiff's letters patent, and the names and addresses of the persons to whom the same respectively have been sold, or for whom the same have been purchased, and the number of machines now in course of construction, and of the licences granted by the defendant to any persons to make or use the said machines, with the names and addresses of the said persons to whom such licences have been granted, and the places where the said machines are respectively licensed to be used, and the amount of royalties received and to be received by or for the use of the defendant, for the granting of such licences in respect thereof.

1557. Certificate of judge that validity of letters patent came in question, on the trial of a question of infringement (*i*). [Dan. Pr. 1442.]

I hereby certify, pursuant to the 31st section of the Patents, Designs, and Trade Marks Act, 1883 (46 & 47 Vict. c. 57), that upon the trial of this action the validity of the plaintiff's patent came in question.

(*Signature of Judge and date.*)

Section VIII.—Proceedings in Copyright Actions (*j*).

(*Dan. Pr.*, pp. 1443—1475, cccciv.)

(*g*) For forms of order, see 1 Seton, 345—348, Nos. 4—8.

(*h*) *Ibid.*, 354, No. 16.

(*i*) As to the effect of this certificate, see 46 & 47 Vict. c. 57, s. 31. See also 2 Seton, 1661. As to certificate of reasonableness and propriety of particulars, see 46 & 47 Vict. c. 57, s. 29 (6).

(*j*) See Short on Copyright; 1 Seton, 243—252. As to copyright in books, see Dan. Pr. 1443—1457; 5 & 6 Vict. c. 45. As to copyright in dramatic pieces and musical composition, see Dan. Pr. 1457—1462; 5 & 6 Vict. c. 45; 3 Will. IV. c. 15; 7 & 8 Vict. c. 12; 45 & 46 Vict. c. 40. As to copyright in engravings, prints, and lithographs, see Dan. Pr. 1462—1464; 8 Geo. II. c. 13; 7 Geo. III. c. 38; 17 Geo. III. c. 57; 15 & 16 Vict. c. 12; 25 & 26 Vict. c. 68. As to copyright in sculpture and busts, see Dan. Pr. 1465—1468; 54 Geo. III. c. 56; 13 & 14 Vict. c. 104. As to copyright in paintings, drawings, and photographs, see Dan. Pr. 1468—1470; 25 & 26 Vict. c. 68. As to copyright in designs, see Dan. Pr. 1470—1475, cccciv. 46 & 47 Vict. c. 57 (repealing 5 & 6 Vict. c. 100; and 13 & 14 Vict. c. 104).

1558.

Notice of motion or summons to expunge entry in Registry Book of the Stationers' Company (*k*). [Dan. Pr. 1445.]

In the High Court of Justice,
Chancery Division.
Mr. Justice ——.

In the matter of the Book entitled ——,
and
In the matter of an Act passed in the session of Parliament held in the fifth and sixth years of the reign of Her Present Majesty, intituled, "An Act to amend the Law of Copyright."

Formal parts: see Form 38 *or* 43.

on behalf of A. B., that the entry made in the Registry Book of the Stationers' Company whereby C. D. is registered as the proprietor of the copyright in the Book entitled —— above-mentioned may be expunged, and that the said C. D. may be ordered to pay the costs of this application.

1559.

Indorsement on writ of summons in action for infringement of copyright (*l*). [Dan. Pr. 1449.]

(*See* Form 305.)

1560.

Notice of motion to restrain infringement (*m*). [Dan. Pr. 1454.]

(*See* Forms 1616, 1617.)

SECTION IX.—ACTIONS AND PROCEEDINGS RELATING TO TRADE MARKS, TRADE NAMES, ETC. (*n*).

(*Dan. Pr.*, pp. 1476—1493, cccev.—cccevi.)

1561.

Indorsement on writ of summons for infringement of trade mark (*o*). [Dan. Pr. 1482.]

The plaintiff's claim is for an injunction to restrain the defendant from infringing the plaintiff's trade-mark, and for damages.

(*k*) See 5 & 6 Vict. c. 45, s. 14.

(*l*) See R. S. C. App. A., Part III., Sect. IV. For form of statement of claim, see R. S. C. App. C., Sect. VI., No. 7. For form of defence, see R. S. C. App. D., Sect. VI. As to notice of objections to be given by defendant, see Dan. Pr. 1456; 5 & 6 Vict. c. 45, s. 16.

(*m*) For forms of order, see 1 Seton, 243—246, Nos. 1—7.

(*n*) See 1 Seton, 234—243; Sebastian on Trade Marks; Lawson's Practice under the Patent, &c., Act, 1883; 46 & 47 Vict. c. 47; The Trade Marks Rules, 1883.

(*o*) For another form of indorsement, see R. S. C. App. A., Part III., Sect. IV.; and Form 306. For form of statement of claim, see R. S. C. App. C., Sect. VI., No. 8; and Form 528. For form of defence, see R. S. C. App. D., Sect. VI.; and Form 578.

1562.
Notice of motion to restrain infringement of trade mark (*p*). [Dan. Pr. 1484.]

(*See* Form 1624.)

1563.
Summons that registration of trade mark may be proceeded with notwithstanding opposition (*q*). [Dan. Pr. 1489.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
In the matter of the Patents, Designs, and Trade Marks Act, 1883,
and
In the matter of the application of A. B.
Formal parts: see Form 1078.

on the part of the above-named A. B., of (*State address and addition*), that, notwithstanding the opposition of ——, of ——, to the application of the said A. B., for the registration of his trade mark, the said application may be proceeded with by the Comptroller, and that for that purpose all necessary directions may be given.

1564.
Application for settlement of a special case on application to register a trade mark (*r*).

In the matter of the application of A. B., and the application of C. D.

Sir,

Notice is hereby given that I, A. B., of ——, and I, C. D., of ——, are unable to agree upon the facts on which the opinion of the Court is to be taken, and that we request you to fix a day on which we may attend before you and obtain your finding on the matters of fact to be submitted to the Court as settled.

Dated this —— day of ——, 188—.

(*Signature of* A. B.)
(*Signature of* C. D.)

To the Comptroller,
Patent Office, Trade Marks Branch,
25, Southampton Buildings,
London.

(*p*) For forms of order, see 1 Seton, 234—238, Nos. 1—6.

(*q*) As to registration of trade marks, see 46 & 47 Vict. c. 57, ss. 62—74. As to opposition to registration, *Ibid.*, s. 69; Dan. Pr. 1488, note (*p*); Trade Marks Rules, 1883, 29. Notice must be sent to the Comptroller, by delivering at, or sending to, the Patent Office a copy of the summons or other initiatory proceeding bearing an indorsement of service signed by the applicant or his solicitor, or an indorsement of acceptance of service signed by the opponent or his solicitor: Trade Marks Rules, 1883, 29 (4).

(*r*) See 46 & 47 Vict. c. 57, s. 71; Trade Marks Rules, 1883, 42, 43, 2nd Sched.,

1565.

Notice of motion or summons for rectification of the Register of Trade Marks (*s*). [Dan. Pr. 1490.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
In the matter of A. B.,
and
In the matter of the Patents, Designs, and Trade Marks Act, 1883.

Formal parts: see Form 38 *or* 1078.

on the part of the above-named A. B., that the Register of Trade Marks may be rectified by —— [*State how; as thus:* entering thereon the name of the said A. B. as the proprietor of (*Here describe the trade mark in question*)].

1566.

Notice of motion or summons for leave to add to or alter a trade mark (*t*). [Dan. Pr. 1492.]

Title and formal parts: as in Form 1565.

on the part of the above-named A. B., that he may be at liberty to add to or alter the trade mark entered in his name on the Register of Trade Marks in the following particulars (*State particulars in which it is desired to alter the mark*).

Section X.—Proceedings in Partnership Actions (*u*).

(*Dan. Pr.*, pp. 1493—1507, ccccvi.)

Form T. The fee for settling the special case is 2*l.*: Trade Marks Rules, 1883, 1st Sched., No. 20. It is believed that no proceedings by way of special case have been carried through, either under the Trade Marks Registration Act, 1875 (38 & 39 Vict. c. 91), or the Patents, Designs, and Trade Marks Act, 1883 (46 & 47 Vict. c. 57).

(*s*) See 46 & 47 Vict. c. 57, s. 90. An office copy of the order must be left at the Patent Office: see Trade Marks Rules, 1883, 44 (*c*). For form of notice to accompany, see *Ibid.*, 2nd Sched., Form N.

(*t*) See 46 & 47 Vict. c. 57, s. 92. *Fourteen days'* notice of the application must be given to the Comptroller: 46 & 47 Vict. c. 57, s. 92 (2); Trade Marks Rules, 1883, 48. A fee of 10*s.* is payable on rectification of the register: Trade Marks Rules, 1883, 1st Sched., No. 14. An office copy of the order must be left at the Patent Office: Trade Marks Rules, 1883, 43 (*c*).

(*u*) See Sup. Cot. of Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 34; 2 Seton, 1193—1220; Lindley on Partnership. For forms of judgments enforcing partnership agreements, see 2 Seton, 1193—1195, Nos. 1—5; and see as to such agreements, *Ibid.*, 1196, 1197. For forms of orders directing accounts, &c., see *Ibid.*, 1197—1201, Nos. 1—6; and see as to such accounts, *Ibid.*, 1202, 1203; as to dissolution, *Ibid.*, 1203, 1204; sale, 1204; appointment of receiver, 1 Seton, 433; 2 Seton, 1205; return of premium, *Ibid.*, 1205; interest on capital, *Ibid.*, 1205, 1206; arbitration, *Ibid.*, 1206. For forms of orders directing accounts after the death or bankruptcy of a partner, see 2 Seton, 1206—1208, Nos. 1—4; and see as to the effect of death, *Ibid.*, 1209, 1210; of bankruptcy, *Ibid.*, 1210. For forms of order in actions by creditors for the administration of the estate of a deceased partner, see 2 Seton, 1210; and as to the liability of partners to creditors, *Ibid.*, 1211—1213; of quasi-partners, *Ibid.*, 1213—1214. For forms of orders in actions by beneficiaries to administer the estate of a deceased partner, see 2 Seton, 1214—1217,

1567. Indorsement on writ of summons (*v*). [Dan. Pr. 1495.]

The plaintiff's claim is for an account of the partnership dealings and transactions between himself and the defendant, and to have the affairs of the said partnership wound up.

1568. Notice of motion or summons to stay action where the parties have agreed to refer to arbitration. [Dan. Pr. 1498.]

(*See* Form 1972.)

1569. Affidavit of an accountant, of the result of his investigation of partnership accounts. [Dan. Pr. 1503.]

Formal parts : see Form 6.

1. In consequence of instructions received by me from Messrs. A. and B., the solicitors in this action for the plaintiff [*or as may be*], I have carefully examined all the books and accounts of the plaintiff and defendant as co-partners in the business or trade of cotton spinners and manufacturers at R. in the county of L., from the —— day of ——, 188—, when the said partnership commenced, until the —— day of ——, 188—, when it was dissolved.

2. I have in the book marked A., now produced and shown to me (*w*), set out the particulars and results of my investigations aforesaid, and the accounts of all the dealings and transactions between the plaintiff and the defendant in the said business of cotton spinners and manufacturers directed to be taken by the judgment in this action, dated the —— day of ——, 188—.

3. To the best of my knowledge, information, and belief, the said book marked A. contains a true and accurate account of all the said dealings and transactions, and of the result of my said investigation of the said partnership books and accounts.

1570. Chief Clerk's certificate of the result of partnership accounts (*x*). [Dan. Pr. 1506.]

Formal parts : see Form 1410.

I have taken an account of the partnership dealings and transactions between the plaintiff and the defendant, from the 12th March, 1855 :

Nos. 1—6 ; and as to parties to such actions, *Ibid.*, 1217, 1218 ; title of beneficiaries, *Ibid.*, 1218 ; interest or profits, *Ibid.*, 1218 ; corpus or income, *Ibid.*, 1218, 1219 ; real or personal estate, *Ibid.*, 1219. For forms of orders for accounts as to ships, see 2 Seton, 1219, 1220, Nos. 1, 2. As to costs in partnership action, see Morgan & Wurtzburg, 244, 245 ; 2 Seton, 1206, 1681 ; 1 Lindley, 226 ; 2 *Ibid.*, 972, 973.

(*v*) For another form of indorsement, see R. S. C. App. A., Part III., Sect I., No. 3 ; and Form 207. For form of statement of claim, see R. S. C. App. C., Sect. II., No. 3 ; and Form 494.

(*w*) Exhibit same. For form of memorandum of exhibit, see Form 28.

(*x*) Adapted from the certificate in *Wood* v. *Scoles*, L. R. 1 Ch. 369, 374. A fee of 1*s.* for every 100*l.* or fraction of 100*l.* found to have been received, without deducting any payment, is payable on taking the account : by a stamp impressed on or attached to the certificate : Ord. as to S. C. Fees, 1884, Sched. No. 72 ; but see *Ibid.*, pp. 12—14 ; Ord. as to Fees, &c., July, 1884, p. 9.

having regard to the partnership articles, and the agreement of dissolution, in the pleadings mentioned.

On such account there was due from the said partnership to the plaintiff, on the 25th December, 1862, being the date of the dissolution of the said partnership, the sum of £A. in respect of his capital in the said partnership; and which sum of £A. is still due to the plaintiff, together with £B. for interest thereon at the rate of £5 per cent. per annum from the last-mentioned day to the date of this certificate: making together £C.

On the same account there was due from the said partnership to the defendant on the said 25th December, 1862, the sum of £D. in respect of his capital in the said partnership: and the account of the defendant has been debited with £E. in respect of the trade stock of the partnership, and the horses, carts, trucks, and other plant and fixtures belonging to the said partnership, taken by him pursuant to the said agreement of dissolution: whereby the said £D. has been reduced to £F.: which sum of £F. is still due to the defendant, together with £G. for interest thereon at the rate aforesaid from the said 25th December, 1862, to the date of this certificate: making together £H.

The defendant has, since the dissolution of the said partnership, received in respect of the assets of the said partnership, other than the said £E. with which his account has been debited as aforesaid, sums to the amount of £I; and he has paid, or is entitled to be allowed, on account thereof, sums to the amount of £K.: leaving a balance due from him of £L. on that account.

The particulars of the above receipts and payments appear in the "Realisation Account," at page 2 of the account marked A., verified by the affidavit of the defendant filed the 5th May, 1865; and which account is to be filed with this certificate: except that, in addition to the sums appearing in such account to have been realised by the defendant, he has been charged with £M. received by him of A. B., in respect of the assets of the said partnership since the said 5th May, 1865; and except that I have not allowed the defendant the sum of £N. retained by him on the 28th February, 1865, on account of his capital in the said partnership: reserving to the Court the application of the partnership assets realised by the defendant since the dissolution of the said partnership; and except that I have deducted from the item of £O. on the debit side of the said "Realisation Account" the sum of £P.: whereby the said item is reduced to £Q.; and except that, in addition to the disbursements appearing in the said "Realisation Account," the defendant has been allowed £R. paid by him into Court to the credit of this action, on the 28th February, 1865, pursuant to the said judgment.

Notwithstanding the foregoing certificate of the result of the said account, the question whether the account of the defendant ought to have been debited with the said £E. is, at the request of the plaintiff, reserved for the consideration of the Court.

The assets of the said partnership now remaining outstanding or undisposed of consist of the particulars set forth in the schedule hereto.

Schedule.

Section XI.—Actions for Discovery (*y*).

(*Dan. Pr.*, pp. 1507—1511, ccccvi.)

Section XII.—Actions to Perpetuate Testimony (*z*).

(*Dan. Pr.*, pp. 1512—1515, ccccvi.)

(*z*) *Perpetuating Testimony.—Summary of Material Provisions of R. S. C.* 1883.

	Order.	
Action to perpetuate testimony.—Any person who would, under the circumstances alleged by him to exist, become entitled, upon any future event, to any honour, title, dignity, or office, or to any estate or interest in any property, the right or claim to which cannot be brought to trial before such event happens, may commence an action to perpetuate testimony . .	XXXVII.	35.
When Attorney-General should be a defendant.—In all actions to perpetuate testimony touching any honour, title, dignity, or office, or any other matter or thing in which the Crown may have any estate or interest. Depositions taken in any such action are admissible in evidence, though the Crown is no party	,,	36.
Examination of witnesses.—Witnesses cannot be examined to perpetuate testimony unless an action has been commenced for the purpose	,,	37.
Action not to be set down.—No action to perpetuate testimony can be set down for trial	,,	38.

As to suits to perpetuate testimony, see Dan. Pr. 1512, note (*g*), and the authorities there cited. As to the costs of a suit to perpetuate testimony, see Morgan & Wurtzburg, 215—217. The provisions of R. S. C. Ord. XXXVII. 35, 36 (see *supra*), reproduce the provisions of 5 & 6 Vict. c. 69 (repealed by 46 & 47 Vict. c. 49, s. 4).

1571. Notice of motion by defendant, that plaintiff may proceed within a limited time. [Dan. Pr. 1513.]

Formal parts: see Form 38.

on the part of the defendant A. B., that the plaintiff may be ordered to proceed forthwith with this action; or, in default thereof, to pay to the said defendant his costs of this action.

(*y*) As to bills of discovery, see Dan. Pr. 1508, note (*k*), and the authorities there cited. As to discovery, see 1 Seton, 142, 143. As to the costs of an action for discovery, see Morgan & Wurtzburg, 214, 215. The powers of compelling discovery possessed by the Court are so wide that an action for discovery only will, it is apprehended, rarely, if ever, be brought: see 1 Seton, 142; but note that the provision of R. S. C. 1875, Ord. XIX. 8, there referred to, is abrogated by R. S. C. 1883; see Ann. Pr. 312.

1572.
Notice of motion for leave to use evidence taken in an action to perpetuate testimony (*a*). [Dan. Pr. 1515.]

Formal parts: see Form 38.

on the part of the plaintiff, that the depositions of C. D., a witness examined in this action on the part of the plaintiff, may be published; and that all parties to a certain action of G. *v.* B. (188—, G. No. ——), may be at liberty to read and make use of the said depositions as evidence in the said action of G. *v.* B. at the trial thereof, and on the subsequent proceedings therein, saving all just exceptions (*If it is desired to have the original record produced, add:* and that the proper officer may be ordered to attend at the trial of the said action of G. *v.* B., and to produce the original record of the proceedings in this action, and the original depositions of the said C. D., filed herein on the —— day of ——, 188—).

1573.
Affidavit in support. [Dan. Pr. 1515.]

Formal parts: see Form 6.

1. This action was brought to perpetuate the testimony of witnesses only.

2. Issue having been joined, A. B., C. D., *&c.*, were examined as witnesses in this action on behalf of the plaintiff, and their depositions were filed on the —— day of ——, 188—.

3. *State special grounds for the application; as thus:* The said C. D. died on the —— day of ——, 188—. He is the same person as C. D., named in the paper writing marked A., now produced and shown to me (*b*), and purporting to be a copy under the seal of the General Register Office, of the entry No. ——, in the certified copy of entries of deaths in the district of ——, in the county of ——, for the year 188—.

4. (*State on what proceedings the depositions are desired to be used.*)

5. *If the notice of motion asks for the production of the original record, add:* I am advised and verily believe that it is material and necessary that the original record of the proceedings in this action, and the original depositions of the said C. D. herein, should be produced (*State when, as*: to the Court and jury on the trial of the said action of G. *v.* B., and that certified or examined copies thereof will be insufficient for the purpose).

6. (*State means of knowledge.*)

(*a*) For form of order, see 2 Seton, 1639, No. 9.
(*b*) For form of memorandum of exhibit, see Form 28.

Section XIII.—Interpleader Proceedings (*c*).

(*Dan. Pr.*, pp. 1515—1525, ccccvi.—ccccviii.)

(*c*) *Interpleader Proceedings.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
When relief by interpleader granted:	
(*a.*) Where the applicant is under liability for any debt, money, goods, or chattels, in respect of which he is *or expects to be* sued by two or more claimants making adverse claims thereto	LVII. 1.
(*b.*) Where the applicant is a sheriff or other officer charged with the execution of process, and a claim is made to any goods, &c., taken in execution, by any person other than the execution debtor . . .	,,
Matters to be proved by the applicant:	
(*a.*) That he claims no interest in the subject-matter in dispute other than for charges or costs . . .	,, 2.
(*b.*) That he does not collude with any of the claimants .	,,
(*c.*) That he is willing to pay or transfer the subject-matter into Court, or to dispose of it as the Court or a Judge may direct	,,
Adverse titles of claimants.—Will not disentitle the applicant to relief	,, 3.
When application may be made by a defendant.—At any time after service of writ	,, 4.
Summons by applicant.—A summons may be taken out calling on the claimants to appear and state the nature and particulars of their claims, and either to maintain or relinquish them	,, 5.
Stay of action.—If the application is made by a defendant all further proceedings in the action may be stayed . . .	,, 6.
Order upon summons.—The Court or a Judge may either order that any claimant be made a defendant in any action already commenced in respect of the subject-matter in lieu of or in addition to the applicant, or direct an issue between the claimants to be stated and tried	,, 7.
Disposal of matters in summary manner.—With consent of both claimants, or on the request of any claimant, if, having regard to the value of the subject-matter in dispute, it seems desirable the claims may be decided in a summary manner .	,, 8.
Questions of law.—Where the question is one of law, and the facts are not in dispute, it may be decided without an issue, or a special case may be ordered to be stated	,, 9.
Non-appearance or non-compliance of claimant.—If a claimant fails to appear on the summons, or neglects or refuses to comply with any order made after appearance, an order may be made barring him against the applicant and persons claiming under him, but the order will not affect the rights of the claimants as between themselves	,, 10.
Order final.—The judgment in any action or on any issue ordered to be tried or stated in an interpleader proceeding, and the decision of the Court or a Judge in a summary way, is final and conclusive against the claimants, and all persons claiming under them, unless by special leave of the Court or Judge, or of the Court of Appeal	,, 11.
Order for sale of goods seized in execution.—When goods have been seized in execution by a sheriff or other officer, and any claimant alleges that he is entitled to them under a bill of sale, or otherwise by way of security for debt, the Court or Judge may order a sale, and direct the application of the proceeds of the sale in such manner as may be just	,, 12.
Rules relating to discovery and trial apply to interpleader.—R. S. C. Ord. XXXI., XXXVI., apply to an interpleader	

ORDER.

issue; and the Court or Judge who tries the issue may finally dispose of the whole matter of the interpleader proceedings, including costs . . . . . LVII. 13.

Title of order.—One order may be made in several causes or matters pending in several Divisions, or before different Judges of the same Division; it must be entitled in all such causes or matters; and will bind the parties therein . . . . . ,, 14.

Costs, &c.—The Court or a Judge may make all such orders as to costs and all other matters as may be just and reasonable ,, 15.

As to the power to transfer interpleader proceedings, where the amount or value of the matter in dispute does not exceed £500, see The Supreme Court of Judicature Act, 1884 (47 & 48 Vict. c. 61), s. 17.

(1.) *Interpleader by Stakeholder (d).*

1574.

Interpleader summons (*e*). [Dan. Pr. 1521.]

188—. B. No. .

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . . Plaintiff,
and
C. D. . . . . Defendant.

Let the above-named plaintiff, his solicitor or agent, and also E. F., of (*residence and addition*), attend at my chambers, situate at the Royal Courts of Justice, Strand, on ——, the —— day of ——, 188—, at —— of the clock in the ——noon, on the hearing of an application on the part of the defendant, that the said E. F. may be ordered to state to the Judge the nature and particulars of his claim to (*Here describe the property or thing the right to which is in question*), the subject-matter of this action, and either to maintain or to relinquish his said claim; and that the costs of the said defendant C. D. of this action, including the costs of this application, may be taxed. And that the said defendant C. D. may be at liberty out of the sum of £—— in his hands, the subject-matter of this action, to retain the amount of the said costs when taxed and certified, without prejudice to the question by whom the same costs are to be ultimately borne.

(*d*) As to interpleader generally, see 1 Seton, 361—367; Chitty's Arch. 1115—1124; Chitty's Forms, 690—697, and notes thereto; Wilson, 481—484; Ann. Pr. 530—533. As to interpleader, where no action has been brought, see 1 Seton, 361, 362; where an action has been brought, *Ibid.*, 363—365; as to where interpleader will lie, and the right to the order, *Ibid.* 365—367. As to costs of interpleader proceedings, see R. S. C. Ord. LVII. 15; Morgan & Wurtzburg, 218—221; 1 Seton, 367; Chitty's Arch. 1122, 1123.

(*e*) See R. S. C. Ord. LVII. 5; and note (*c*), *supra*. It seems that an interpleader summons may now be issued, although no action has been brought: see R. S. C. Ord. LVII. 1. In such case the application will be by originating summons; otherwise, by an ordinary summons in the action. If the applicant is defendant in an action already brought, he may apply at any time after service of the writ of summons: R. S. C. Ord. LVII. 4. For forms of order, see 1 Seton, 358—360, Nos. 1—6; R. S. C. App. K., No. 51. For cases in which leave has been given to serve an interpleader summons on a foreigner resident out of the jurisdiction, see *Credito Gerundense Limited* v. *Van Weede*, 12 Q. B. D. 171: 32 W. R. 414; *Van der Kan & Deitzman* v. *Ashworth & Co.*, W. N. (1884), 58.

And that the said defendant C. D. may be at liberty to pay the residue of the said sum of £——, after retaining thereout the amount of the said costs when so taxed and certified, into Court to the credit of this action, B. *v.* D., 188—, B. No. . And that upon such payment into Court being made as aforesaid, all further proceedings in this action may be stayed as against the said defendant C. D. (*f*). And that such further order may be made for the purpose of determining the rights of the plaintiff and of the said E. F. in the residue of the said sum of £——, the subject-matter of this action, as may appear to be just and reasonable.

1575. Another form of interpleader summons. [Dan. Pr. 1521.]

Proceed as in Form 1574, *down to* may be taxed; *and continue thus:* And that the plaintiff may be ordered to pay to the said defendant C. D. the amount of the said costs when so taxed, without prejudice to the question by whom the same are to be ultimately borne. And that upon such payment being made the said defendant C. D. may be at liberty

to transfer the £100 consolidated £3 per cent. annuities standing in his name in the books of the Bank, and being the subject-matter of this action, into Court to the credit of this action, B. *v.* D., 188—, B. —, and to receive any dividends on the said annuities now due, or to become payable to him before or after such transfer, and to pay such dividends into Court to the same credit; *or*,

to deposit in Court to the credit of this action, B. *v.* D., 188—, B. —, the Exchequer bills [*or*, the twenty Chilian 5 per cent. 1871 bonds—*or as may be*] specified in the schedule hereto, and being the subject-matter of this action; *or*,

to deposit in Court to the credit of this action, B. *v.* D., 188—, B. —, the ten bonds of the —— Gas Company specified in the schedule hereto, and being the subject-matter of this action, and to execute and procure to be registered a transfer of such securities to the Chancery Pay Office account; *or*,

to place in a box, in the presence of the solicitors for the plaintiff and for the said E. F., the claimant, the several articles of plate [*or*, jewellery—*or*, the several deeds and documents of title] specified in the schedule hereto, and being the subject-matter of this action, and to deposit such box in Court to the credit of this action, B. *v.* D., 188—, B. —;

And that upon such transfer and payment into Court [*or*, such deposit in Court] being made as aforesaid all further proceedings in this action (*Continue as in* Form 1574, *substituting a brief description of the property in question for the words* the said sum of £——).

(*f*) See R. S. C. Ord. LVII. 6; and note (*c*), *supra*.

1576.

Another form of interpleader summons. [Dan. Pr. 1521.]

Proceed as in Form 1574, *down to* ultimately borne; *and continue thus:* And that all further proceedings in this action may be stayed as against the said defendant C. D., except in the event of a breach of his undertaking hereinafter mentioned. And that the said defendant C. D. may retain possession of the (*Here describe briefly the property the right to which is in question; it may be conveniently done by reference to a schedule*), the subject-matter of this action, until further order, upon his undertaking to deal with the same as this Court shall direct. And that such further order may be made for the purpose of determining the rights of the said plaintiff and of the said E. F. in the said ——, the subject-matter of this action, as may appear to be just and reasonable.

1577.

Affidavit in support of the summons (*g*). [Dan. Pr. 1521.]

(*Title and reference to the record.*)

I, C. D., of —— in the county of —— (*Description*) the defendant in the above action, make oath and say as follows:—

1. The writ of summons herein was issued on the —— day of ——, 188—, and was served on me on the —— day of ——, 188—.

2. The action is brought to recover (*Here describe concisely the subject-matter in respect of which the interpleader proceedings are brought*). The said —— is [*or*, are] in my possession, but I claim no interest therein.

3. The right to the said subject-matter of this action has been and is claimed by one E. F. of ——, who has commenced an action [*or*, whom I expect to commence an action (*h*)] against me for recovery of the said ——.

4. I do not in any manner collude (*i*) with the said E. F., or with the above-named plaintiff, but I am ready to bring into Court or to pay or dispose of the said —— in such manner as the Court may order or direct.

(*Sworn, &c.: see* Form 9.)

(*g*) See R. S. C. Ord. LVII. 2; App. B., No. 26; and note (*c*), *supra*.

(*h*) See R. S. C. Ord. LVII. 1 (*a*); and note (*c*), *supra*.

(*i*) The objection that a stakeholder has, by merely taking an indemnity from one of two rival claimants to property in his hands, disentitled himself to relief, because he has identified himself with, and must be taken to *collude* with the claimant who gave the indemnity, cannot be raised by the claimant himself: *Thompson* v. *Wright*, 13 Q. B. D. 632: 33 W. R. 96.

(2.) *Interpleader at instance of the Sheriff* (*j*).

1578. Interpleader summons (*k*). [Dan. Pr. 1524.]

(*Title and reference to the record.*)

Let the above-named plaintiff, the judgment creditor, his solicitor or agent, and also E. F., of (*residence and addition*), his solicitor or agent, attend at my Chambers, situate at the Royal Courts of Justice, on —— the —— day of ——, 188—, at —— of the clock in the ——noon, on the hearing of an application on the part of the sheriff of ——, that the said plaintiff and the said E. F. may be ordered to state the nature and particulars of their respective claims to the goods and chattels seized by the said sheriff of —— under the writ of *fieri facias* issued in this action, and either to maintain or to relinquish the same, and abide by such order as may be made herein; and that in the meantime all further proceedings may be stayed.

1579. Affidavit in support (*l*). [Dan. Pr. 1524.]

Formal parts: see Form 6.

I, X. Y., of (*address*), officer to the sheriff of ——, make oath and say as follows:

1. Under and by virtue of a writ of *fieri facias*, which appeared to me to have been regularly issued out of this honourable Court in this action, directed and delivered to the said sheriff, commanding him that he should cause to be made of the goods and chattels of the above-named defendant C. D. the sum of (*State what, as in the body of the writ*), and indorsed to levy (*State what, as in the indorsement*), and also by virtue of a warrant of the said sheriff granted on the said writ and to me directed, I did on the —— day of ——, 188—, take possession of certain goods and chattels in the dwelling-house of the said defendant, situate at ——, in the said county, and the said goods and chattels still remain in my possession as officer of the said sheriff.

2. *State the claim set up by a third party, as thus:* On the —— day of ——, 188—, I was served with a notice, of which the following is a copy (*Here copy the notice to withdraw, if any, served upon the officer*).

3. The application made in this action by interpleader summons dated the ——, 188—, is made solely on my behalf as officer to the said sheriff, at my own expense and for my own relief and protection, and for the relief and protection of the said sheriff; and I do not nor does the said sheriff in any manner collude with the said E. F. or with the above-named plaintiff.

(*j*) As to interpleader by sheriff, see 1 Seton, 369, 370; Chitty's Arch. 1124—1135; Lush. Pr. 3rd ed., 777; Chitty's Forms, 697—704. As to costs, see R. S. C. Ord. LVII. 15; and note (*c*), *supra*; Chitty's Arch. 1132—1134; *Searle & Co.* v. *Matthews*, W. N. (1883), 176.

(*k*) See R. S. C. Ord. LVII. 1 (*b*), 5, 12; and note (*c*), *supra*. For forms of order, see 1 Seton, 367—369, Nos. 1—7; R. S. C. App. K., Nos. 50, 52—57. As to the right of the sheriff to appeal against the order, see *Smith* v. *Darlow*, 26 Ch. D. 605: 32 W. R. 665. Where an interpleader issue has been tried by a Judge with a jury, a motion for a new trial on the ground of misdirection, &c., must be made, not to the Court of Appeal, but to a Divisional Court: *Robinson* v. *Tucker*, 32 W. R. 697 (overruling *Burstall* v. *Bryant*, 12 Q. B. D. 103: 32 W. R. 495).

(*l*) See Chitty's Forms, 697; Chitty's Arch. 1129.

Section XIV.—Actions of Review.

(*Dan. Pr.*, pp. 1526—1531.)

1580

Notice of motion for leave to bring action of review (*m*). [Dan. Pr. 1527.]

Formal parts: see Form 38.

on behalf of the defendant [*or as may be*], that he may be at liberty to bring an action of review [*or*, a supplemental action in the nature of an action of review], notwithstanding the judgment dated the —— day of ——, 188—, on the ground that (*State the grounds of the application, as thus:* since the date of the said judgment the applicant has for the first time discovered certain new matter material to his defence of this action, as particularly set forth in the affidavit of the applicant filed the —— day of ——, 188—).

1581.

Notice of motion to stay an action of review commenced without leave. [Dan. Pr. 1527.]

Formal parts: see Form 38.

on behalf of the defendant, that this action may be stayed on the ground that it is an action of review [*or*, a supplemental action in the nature of an action of review], and has been instituted without the leave of the Court.

(*m*) As to indorsement on the writ of summons in an action of review, see Dan. Pr. 1528. As to form of statement of claim, *Ibid.*, 1529; of defence, *Ibid.*, 1530, 1531. For the practice of the Court of Chancery in bills of review and bills in the nature of bills of review, see Dan. Pr. 5th ed., 1422—1428.

CHAPTER XXII.

PETITION OF RIGHT (*a*).

(*Dan. Pr.*, pp. 1538—1541, ccccix.)

1582.

Formal parts of a petition of right (*b*). [Dan. Pr. 1539.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*) (*Title of intended suit.*)
To the Queen's Most Excellent Majesty:

The humble petition of A. B., of ——, by his solicitor C. D., of —— (*State the christian and surnames, and usual places of abode of the suppliant, and of his solicitor, if any, by whom the petition is presented*).

Showeth as follows:

1. The, &c. } (*Set forth, with convenient certainty, the facts entitling*
2. On, &c. } *the suppliant to relief.*)

Your suppliant therefore humbly prays that your Majesty would be graciously pleased to direct this petition to be indorsed with your Majesty's fiat "Let right be done."

Dated the —— day of ——, 188—.

A. B.

[*Or*, C. D., counsel [*or*, solicitor] for the above-named suppliant A. B.]

1583.

Indorsement on copy petition for service on the Solicitor to the Treasury (*c*). [Dan. Pr. 1540.]

(*Short title.*)
Petition of Right
of A. B.

The suppliant prays for a plea or answer on behalf of Her Majesty, within twenty-eight days after the date hereof; or, otherwise, that

(*a*) See 23 & 24 Vict. c. 34; Ord. 1 Feb. 1862 (which is not repealed by R. S. C. 1883); 1 Seton, 58, 59; Morgan, 201, 202. As to costs, see 23 & 24 Vict. c. 34, ss. 13, 14; Morgan & Wurtzburg, 336—339.

(*b*) See 23 & 24 Vict. c. 34, s. 1, and Sched. No. 1. For form of petition, see Chitty's Forms, 647, 648. On filing a petition of right, a fee is payable of 1*l.*: by a stamp impressed upon the petition or upon a *præcipe* to be filed: Ord. as to S. C. Fees, 1884, Sched. No. 28; Ord. as to Fees, &c., July, 1884, p. 6.

(*c*) See 23 & 24 Vict. c. 34, ss. 3—5, 8, and Sched. No. 2; Ord. 1 Feb. 1862, rule 3. On marking a copy of a petition of right for service, a fee of 5*s.* is payable: by a stamp impressed on the copy: Ord. as to S. C. Fees, 1884, Sched. No. 16; Ord. as to Fees, &c., July, 1884, p. 4.

the petition may be taken as confessed. Dated the —— day of ——, 188—.

C. D., of (*address*),
[Agent for E. F., of (*address*)],
the suppliant's solicitor.

1584.

Indorsement for service on other parties (*d*). [Dan. Pr. 1540.]

(*Short title.*)
Petition of Right
of A. B.

To E. F.

You are hereby required to appear to the within petition, in the Chancery Division of Her Majesty's High Court of Justice, within eight days, and to plead or answer thereto within fourteen days, after the date hereof.

Take notice, that if you fail to appear or plead or answer in due time, the said petition may, as against you, be ordered to be taken as confessed.

Dated (*&c., conclude as in* Form 1583).

1585.

Præcipe for appearance (*e*). [Dan. Pr. 1540.]

In the High Court of Justice,
Chancery Division,
A. B. suppliant, } Petition of Right.
v.
The Queen. }

E. F., of (*address*), appears in person [*or*, G. H., of (*address*), solicitor for E. F., appears for him].

Entered the —— day of ——, 188—.

1586.

Notice of motion that petition may be taken as confessed (*f*). [Dan. Pr. 1540.]

Formal parts: see Form 38.

on the part of the petitioner, that the petition of right of the above-named A. B. may be taken as confessed as against Her Majesty [*or as may be*].

1587.

Summons for time to plead or answer (*g*). [Dan. Pr. 1540.]

Formal parts: see Form 43 *or* 1077.

on the part of the above-named C. D. [*or as may be*], that he may have (one month's) further time to plead or answer to the petition of right of the above-named A. B.; and that the costs of this application may be costs in the cause.

(*d*) See Form 1583, note (*c*).
(*e*) See 23 & 24 Vict. c. 34, s. 5, and Sched. No. 4.
(*f*) See 23 & 24 Vict. c. 34, s. 8.
(*g*) See 23 & 24 Vict. c. 34, ss. 4, 5.

1588.

188—. B. No.

Formal parts of answer and plea of the Attorney-General (*h*). [Dan. Pr. 1540.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

A. B. (Suppliant).
v.
The Queen.

Answer and Plea,

By Her Majesty's Attorney-General, for and on behalf of our Lady the Queen, delivered this —— day of ——, 188—, by Messrs. H. & Co., of, *&c.*, as agents for the Solicitor for the affairs of Her Majesty's Treasury.

Sir H. J., knight, Her Majesty's Attorney-General, on behalf of our said Lady the Queen, gives the Court here to understand and be informed as follows :—

1. No such, *&c.*

2. In the year, *&c.*

3. The said Attorney-General, on behalf of Her Majesty, further gives the Court to understand and be informed that, save as aforesaid, the several averments and statements contained in the said Petition of Right are not nor is any of them true in fact.

1589.

Certificate of tenor and purport of judgment (*i*). [Dan. Pr. 1540.]

To the Lords Commissioners of Her Majesty's Treasury [*or*, To the Treasurer of Her Majesty's Household].

Petition of Right of A. B., in Her Majesty's High Court of Justice.

I humbly certify that on the —— day of ——, A.D. 188—, It was, by the said High Court of Justice, adjudged [*or*, ordered] that the above-named suppliant was entitled to, *&c.*

(*Judge's signature.*)

(*h*) See 23 & 24 Vict. c. 34, s. 6. It seems that, notwithstanding the provisions of R. S. C. Ord. XXV., by which demurrers are abolished, a demurrer can be put in by the Attorney-General to a petition of right.

(*i*) See 23 & 24 Vict. c. 34, ss. 8, 9, 13, 14, and Sched. No. 5. For form of judgment on the hearing of a petition of right, see 1 Seton, 58.

CHAPTER XXIII.

MOTIONS AND PETITIONS, AND ORDERS THEREON.

(*Dan. Pr.*, pp. 1542—1573, ccccix., ccccxi.)

SECTION I.—MOTIONS (*a*).

(*Dan. Pr.*, pp. 1546, 1561, ccccix., ccccx.)

(*a*) *Motions.—Summary of Material Provisions of R. S. C.* 1883.

ORDER.

Applications by motion.—Where any application is authorised to be made to the Court or a Judge, it must if made to a Divisional Court or to a Judge in Court, be made by motion . LII. 1.

Rules nisi, &c.—No motion for a rule *nisi* or order to show cause can be made in any action; or (*a*) to set aside, remit, or enforce an award; or (*b*) for attachment; or (*c*) to answer the matters in an affidavit; or (*d*) to strike off the rolls; or (*e*) against a sheriff to pay money levied under an execution . . ,, 2.

Where notice of motion must be given.—Except where under the practice before the Jud. Act, 1873, an order or rule might be made absolute *ex parte* in the first instance, and except where a motion or application may be made for an order to show cause only, notice of motion must be given. But in urgent cases, an order may be made *ex parte* . . . . . ,, 3.

When grounds of notice of motion must be stated.—Every notice of motion to set aside, remit, or enforce an award, or for attachment, or to strike off the rolls, must state in general terms the grounds of the application; and where such motion is founded on evidence by affidavit, a copy of any affidavit intended to be used must be served with the notice of motion . ,, 4.

Length of notice of motion.—Except by special leave, there must be *two clear days* between service of a notice of motion and the day for hearing. But in an application to answer the matters in an affidavit, or to strike off the rolls, the notice of motion must be served *ten clear days* before the day for hearing ,, 5.

Dismissal or adjournment.—If the Court or Judge considers any person not served with notice ought to have had notice, the motion may be dismissed, or adjourned that such notice may be given . . . . . ,, 6.

Adjournment of hearing.—The hearing of any motion may be adjourned on such terms as the Court or Judge may think fit . ,, 7.

Service of notice on defendant not appearing to writ.—Notice of motion may be served in such case without special leave . . ,, 8.

Service of notice of motion with writ.—The plaintiff may, by special leave, to be obtained *ex parte*, serve notice of motion on any defendant with the writ, or at any time after service and before the time limited for appearance . . . . . ,, 9.

Assignment to particular Judge.—Where proceedings are commenced by notice of motion, it must be brought to the Writ Department of the Central Office, and be marked by the proper officer, with the name of one of the Judges of the Chancery Division to whom Chambers are attached. . . . . V. 9 (*c*).

Appearance by infant.—An infant served with a notice of

	Order.
motion appears by guardian *ad litem* in all cases where the appointment of a special guardian is not provided for . . .	XVI. 19.
Evidence on motion.—May be given by affidavit; the deponents may be ordered to attend for cross-examination . .	XXXVIII. 1.
Evidence in support of ex parte applications.—Except by special leave, no order made *ex parte* in Court, founded on any affidavit, will be of any force, unless such affidavit was actually made before the order was applied for, and produced or filed at the time of making the motion	,, 19.

As to motions and orders thereon, see 1 Seton, 54—58. As to costs, *Ibid.*, 57, 58; Morgan & Wurtzburg, 46—73; Morgan, 478, 479.

(*See* Form 36.)

1590. Formal parts of indorsement of a motion paper (*b*). [Dan. Pr. 1547.]

(*See* Form 38.)

1591. Formal parts of a notice of motion (*c*). [Dan. Pr. 1547.]

1592. Motion paper to make absolute an order *nisi* (*d*). [Dan. Pr. 1548.]

Formal parts: see Form 36.

To move on behalf of C. D., that the annexed order *nisi*, dated ——, 188—, may be made absolute.

An affidavit of service, and the Registrar's certificate of no cause shown, accompany.

1593. Motion paper for leave to serve notice of motion (*e*). [Dan. Pr. 1549.]

Formal parts: see Form 36.

To move on behalf of the plaintiff, that he may be at liberty to serve notice of motion for the —— day of ——, 188—, for an injunction in accordance with the indorsement of claim on the writ of summons [*or as may be*], on the defendant C. D. (*If it is desired to serve the notice of motion out of the jurisdiction, state where, as thus:* at Paris or elsewhere in the Republic of France), along with the writ of summons in this action [*or*, notwithstanding that the said defendant has not appeared in

(*b*) A fee of 5*s.* is payable on an order made on motion: by a stamp impressed thereon: Ord. as to S. C. Fees, 1884, Sched. No. 66; Ord. as to Fees, &c., July, 1884, p. 9.

(*c*) As to cases in which notice of motion is required to be given, and length of notice, see R. S. C. Ord. LII. 3, 5; and note (*a*), *supra*. The day named in the notice must be a day on which the Court can sit, otherwise the notice will be bad: *Daubney* v. *Shuttleworth*, 1 Exch. D. 53; *Deykin* v. *Coleman*, 25 W. R. 294.

(*d*) See R. S. C. Ord. LII. 2, 3; and note (*a*), *supra*.

(*e*) *Leave to serve notice of motion.*—Such leave is required (1) where the defendant has not appeared, and the time limited for appearance has not expired: R. S. C. Ord. LII. 9; (2) where it is desired to obtain leave to serve short notice: R. S. C. Ord. LII. 5; (3) where an order for substituted service is required: R. S. C. Ord. LXVII. 6; (4) where the person to be served is out of the jurisdiction: Dan. Pr. 1551.

this action, and that the time limited for entering an appearance has not expired].

If substituted service desired, add: And that service of such notice upon (*State whom, as in* Form 989) may be deemed good service upon the said defendant C. D.

1594.

Affidavit of service of a notice of motion (*f*). [Dan. Pr. 1553.]

(*See* Form 31.)

1595.

Indorsement on brief on a special motion (*g*). [Dan. Pr. 1554, note (*l*).]

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
[*Or*, In the Court of Appeal.]
—— day of ——, 188— (*day named in the notice for making motion*).

Brown
v.
Dobinson.
188—. B. No.

Brief on motion.

For the plaintiff (*Continue as in* Form 832).

1596.

Notice of motion to discharge an order made on motion (*h*). [Dan. Pr. 1560.]

Formal parts: see Form 38.

on the part of the defendant A. B. [*or as may be*], that the order made in this action [*or*, matter] dated the —— day of ——, 188—, on the application of the plaintiff [*or as may be*], whereby it was ordered that, *&c.*, may be discharged.

If the application is made on the ground of irregularity, add: on the ground that such order was irregular in the following particulars (*State objections intended to be insisted on* (*i*)); and that the said plaintiff [*or as may be*] may pay to the applicant his costs of and occasioned by such order, and of this application: such costs to be taxed.

(*f*) As to service of a notice of motion, see R. S. C. Ord. LXVII. 2, 4, 5, 6, 7; 1 Seton, 57. As to the contents of an affidavit of service: *Ibid.*, 9. As to when an affidavit of service must be filed, see note (*a*) to Form 31.

(*g*) Counsel's brief will consist of the evidence in support of, and in opposition to, the motion, and such observations as may be necessary and proper; a copy of the notice of motion should be annexed, and generally a copy of the pleadings should accompany.

(*h*) An order made on motion may be discharged upon application to the Court by which it was pronounced, in the cases following, viz.:—where the order was made *ex parte*, or was *irregular*, or fresh evidence is produced which was not before the Court when the order was made. In other cases the motion must be made in the Court of Appeal.

(*i*) See R. S. C. Ord. LXX. 3.

Section II.—Petitions (*k*).

(*Dan. Pr.*, pp. 1561—1573, ccccx., ccccxi.)

(*k*) *Petitions.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Service on defendant not appearing to writ.—A petition may be served in such case without special leave	LII. 8.
Footnote.—At the foot of every petition (not being of course), and of every copy thereof, a statement must be made of the persons, if any, intended to be served, and, if there be none such, a statement to that effect	,, 16.
Length of notice.—Unless by special leave, there must be at least *two clear days* between the service and day for hearing .	,, 17.
Answering petition, &c.—Petitions which require to be answered must be answered in the name of the Senior Registrar, and orders on petitions of course must be drawn up, passed, and entered by or under the direction of the Registrars . .	LXII. 18.
Assignment to particular Judge.—Where proceedings are commenced by petition, it must be brought to the Registrars' Office, and marked by the proper officer with the name of one of the Judges of the Chancery Division to whom Chambers are attached	V. 9 (*d*).
Appearance by infants.—An infant served with a petition appears by guardian *ad litem* in all cases where the appointment of a special guardian is not provided for	XVI. 19.
Tender of costs.—Where notice is given to a party served that in case of his appearance in Court his costs will be objected to, accompanied by a tender of costs for perusing the petition, the amount to be tendered is 1*l.* 10*s.*	LXV. 27 (19).
Evidence on petitions.—May be given by affidavit: the deponents may be ordered to attend for cross-examination .	XXXVIII. 1.

As to petitions and orders thereon, see 1 Setōn, 49—53; as to evidence on petitions, *ib.* 53; as to petitions adjourned to Chambers, *ib.* 54. As to costs on petitions, see Morgan & Wurtzburg, 46—73.

1597. Formal parts of a petition of course. [Dan. Pr. 1561.]

(*See* Form 39.)

1598. Consent to a petition not otherwise of course.

(*See* Form 42.)

1599. Formal parts of a special petition (*m*). [Dan. Pr. 1561.]

(*See* Form 40.)

(*m*) A fee of 1*l.* is payable on answering and setting down for hearing in Court a petition by which any proceeding is commenced, and of 10*s.* on any other petition: by impressed stamps; and a fee of 1*l.* is payable on an order made on the hearing of a petition: by a stamp impressed on the order: Ord. as to S. C. Fees, 1884, Sched. Nos. 55—57; Ord. as to Fees, &c., July, 1884, pp. 8, 9.

1600.
Footnote to a special petition (*n*).
[Dan. Pr. 1563.]

(*See* Form 41.)

1601.
Motion paper for substituted service of a petition (*o*).
[Dan. Pr. 1565.]

Formal parts: see Form 36.

To move on behalf of the petitioner, that service of his petition presented on the —— day of ——, 188—, upon (*Describe proposed substitute, as in* Form 989), may be deemed good service on the respondent C. D.

1602.
Motion paper for leave to serve a petition abroad (*p*).
[Dan. Pr. 1565.]

Formal parts: see Form 36.

To move on behalf of the petitioner, for leave to serve a copy of his petition presented on the —— day of ——, 188—, upon C. D., at (*State where, as thus:* Dublin, or elsewhere, in Ireland).

1603.
Summons for the like (*q*).
[Dan. Pr. 1566.]

Formal parts: see Form 43 or 1077.
on behalf of the petitioner, that he may be at liberty to serve (*Continue as in* Form 1602, *to the end*).

1604.
Affidavit of service of a petition (*r*).
[Dan. Pr. 1566.]

(*See* Form 33.)

1605.
Request that a petition, adjourned without day, may be restored to the paper.
[Dan. Pr. 1568.]

(*Short title and reference to the record.*)

I request that the petition of A. B., presented on the ——, 188—, and directed on the ——, 188—, to stand over, may be restored to the paper of petitions of Mr. Justice ——, for the next petition day. Dated this —— day of ——, 188—.

C. D., solicitor for the petitioner.

(*n*) See R. S. C. Ord. LII. 16; and note (*k*), *supra*.

(*o*) For forms of order, see 2 Seton, 1624, 1625, Nos. 10, 11. As to substituted service, see R. S. C. Ord. LXVII. 6.

(*p*) For forms of order, see 2 Seton, 1625, Nos. 12, 13.

(*q*) See 2 Seton, 1625.

(*r*) As to service of a petition, see R. S. C. Ord. LXVII. 2, 4, 5, 6, 7. As to the contents of an affidavit of service: *Ibid.*, 9. As to when an affidavit of service must be filed, see note (*a*) to Form 31.

1606.

Formal parts: see Form 1605.

I request that the petition of A. B., presented on the ——, 188—, and directed on the ——, 188—, to stand over [*or*, the further consideration whereof was adjourned by the order dated the ——, 188—], may be placed in the paper of petitions of Mr. Justice ——, for the next petition day.

Request that a petition directed to stand over, or adjourned for further consideration, may be restored to the paper. [Dan. Pr. 1568.]

1607.

Formal parts: see Form 37.

Take notice that the petition of A. B., presented (*&c.: as in* Form 1605 *or* 1606), has this day been placed by the Registrar in the paper of petitions of Mr. Justice ——, for the next petition day.

Notice of restoration of petition. [Dan. Pr. 1568.]

1608.

Formal parts: see Form 36.

To move on behalf of the petitioner, for liberty to amend his petition presented on the —— day of ——, 188—, as he may be advised [*or*, by (*Here state the nature of the amendments desired*)].

Motion paper for liberty to amend petition (*s*). [Dan. Pr. 1569.]

1609.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Brown
v.
Dobinson.
188—. B. No. .

} Brief on Petition.

For the petitioner [*or*, respondent A. B.].
Mr. Y., Q. C. (*Continue as in* Form 832).

Indorsement on brief on hearing of petition (*t*).

1610.

(*Same as* Form 1596.)

Notice of motion to discharge an order made on petition. [Dan. Pr. 1572.]

(*s*) For forms of order, see 2 Seton, 1625, Nos. 11, 13.

(*t*) Counsel's brief will consist of a brief copy of the petition, and of the evidence on each side, together with such observations as may be necessary and proper.

CHAPTER XXIV.

INJUNCTIONS AND RESTRAINING ORDERS, AND ORDERS AND NOTICES IN THE NATURE THEREOF.

(*Dan. Pr.*, pp. 1574—1637, ccccxi.—ccccxiii.)

SECTION I.—INJUNCTIONS AND RESTRAINING ORDERS (*a*).

(*Dan. Pr.*, pp. 1574—1627, ccccxi., ccccxii.)

(*a*) *Injunctions, &c.—Summary of Material Provisions of R. S. C.* 1883.

ORDER.

Early trial in urgent cases.—Whenever an application is made before trial for an injunction or other order, and on the opening of such application, or at any time during the hearing thereof, it appears to the Judge that the matter in controversy is one which can be most conveniently dealt with by an early trial, without first going into the whole merits on affidavit or other evidence for the purposes of the application, the Judge may make an order for such trial, to be held at the next or any other assizes for any place, if it shall appear convenient, and may in the meantime make such order as the justice of the case may require (R. S. C. Oct. 1884, 11) . . . . . L. 1*a*.

Application for interlocutory order.—May be made by any party; if by plaintiff, it may be made, either *ex parte*, or with notice, at any time after the issue of the writ of summons, and if by any other party, then on notice to the plaintiff, and at any time after appearance . . . . . ,, 6.

Writ of injunction abolished.—No writ of injunction is to be issued; but an injunction is to be by a judgment or order: which is to have the effect which a writ of injunction previously had . . . . . ,, 11.

Injunction from repetition of injury.—In any case in which an injunction has been or might have been claimed, the plaintiff may, before or after judgment, apply for an injunction to restrain the defendant from the repetition or continuance of the wrongful act complained of . . . . . ,, 12.

Furnishing copies of affidavits.—In case of an *ex parte* application for an injunction, the party making such application must furnish copies of the affidavits upon which it is granted (upon payment of the proper charges), immediately upon receipt of a written request for the same, or within such time as may be specified in the request, or the Court or a Judge may direct LXVI. 7 (*j*).

As to injunctions generally, see 36 & 37 Vict. c. 66, s. 25, sub-s. 8; Kerr on Injunctions; Joyce on Injunctions; 1 Seton, 171—299; Ann. Pr. 469—472.

1611. Indorsement on writ of summons of claim of an injunction (*b*). [Dan. Pr. 1575.]

The plaintiff's claim is for an injunction to restrain the defendant A. B. from (*State what; see* Forms 1613 *to* 1626).

1612. Motion paper for interim injunction (*c*). [Dan. Pr. 1608.]

Formal parts: see Form 36.

To move on behalf of the plaintiff, for an order restraining the defendant A. B. [*or as may be; see* Form 1613] from (*State what; see* Forms 1613 *to* 1626), until after the —— day of ——, 188—. And for leave to serve notice of motion for that day along with the writ of summons [*or as may be*].

1613. General form of notice of motion for an injunction. [Dan. Pr. 1612.]

Formal parts: see Form 38.

on the part of the plaintiff, that the defendant A. B., his

Or, defendants A. B., C. D., *&c.*, their, and each of their,

officers, contractors, servants, workmen, and agents [*or as may be*], may be restrained, by the order and injunction of this honourable Court, from (*State what: for examples, see* Forms 1614 *to* 1626): until the trial of this action [*or as may be*], or until further order (*d*).

1614. Notice of motion to restrain interference with ancient lights (*e*). [Dan. Pr. 1588.]

Proceed as in Form 1613 *to* Court,

from continuing to erect or raise the walls or building, now in course of erection by the defendants to the north of the plaintiff's premises, situate and being (*Describe the plaintiff's premises*), to a greater height than the same wall or building now is: until, *&c.*

(*b*) See R. S. C. Ord. II. 1; *Ibid.*, Ord. III. 1—3; App. A., Part III., Sect. IV.; *Colebourne* v. *Colebourne*, 1 Ch. D. 690; *Re Myer's Patent*, W. N. (1882), 53.

(*c*) An injunction may be granted by an interlocutory order of the Court in all cases in which it shall appear to the Court to be just or convenient that such order should be made; and any such order may be made either unconditionally, or upon such terms and conditions as the Court shall think just: Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 25, sub-s. 8. As to injunctions on interlocutory applications, see Dan. Pr. 1606—1620; 1 Seton, 175—179. As to the power of a Judge to make, in urgent cases, interlocutory orders for another Judge who may be temporarily absent, see Sup. Cot. of Jud. Act, 1881 (44 & 45 Vict. c. 68, s. 12). As to who may apply and when, see R. S. C. Ord. L. 6; and note (*a*), *supra*. As to the form of order, see 1 Seton, 173. As to undertaking as to damages, *Ibid.*, 173, 174. As to service of injunction, *Ibid.*, 174. For forms of order, *Ibid.*, 171, Nos. 2—4.

(*d*) As to the meaning of these words, see *Bolton* v. *London School Board*, 7 Ch. D. 766.

(*e*) See *Back* v. *Inns of Court Hotel Company, Limited*, V.-C. W. 24 March, 1865, Reg. Lib. A. 488. As to interference with ancient lights, water-courses, and other easements, see Dan. Pr. 1588—1590; 1 Seton, 197—202: 210—219.

1615.

Notice of motion to restrain sale of goods under a bill of sale.

Proceed as in Form 1613 *to* Court,
from selling, offering for sale, dealing with, or disposing of any of the goods and chattels mentioned or referred to in the bill of sale, dated the —— day of ——, 188—, and made between (*State the parties*): until, *&c.*

1616.

Notice of motion to restrain infringement of copyright (*f*). [Dan. Pr. 1448, 1453—1455, 1591.]

Proceed as in Form 1613 *to* Court,
from printing, publishing, selling, or otherwise circulating such portion of the defendant's works, intituled "Mineral Statistics of the United Kingdom of Great Britain and Ireland, for the year 1865," as is set forth in the statistics contained in the annual statements or publications published by, or on behalf of, the plaintiff, and entitled (*State what*); and from doing any other act or thing in invasion or infringement of the plaintiff's copyright in the said annual statements or publications, or any of them: until, *&c.*

1617.

The like (*g*). [Dan. Pr. 1591.]

Formal parts: see Form 38.
on the part of the plaintiff, that the defendant, his printers and publishers, and his and their agents, servants, and workmen, may be restrained by, *&c.*, from further printing, publishing, selling, delivering, or otherwise disposing of, the book called "London Lyrics, by F. L." printed and published for the defendant; or any copy or copies thereof: and from printing or publishing the book called "A selection from the works of F. L.," or any colourable imitation thereof: until, *&c.*

1618.

Notice of motion to restrain distress for rent (*h*).

Proceed as in Form 1613 *to* Court,
from taking any further proceedings by distress, to recover the rents and profits of the hereditaments and premises situate and being (*Describe the premises*); and from putting into force and execution the distress levied by the defendant upon the goods and chattels of W. P.: until, *&c.*

1619.

Notice of motion to restrain a Local Board of Health from polluting a river (*i*). [Dan. Pr. 1587.]

Proceed as in Form 1613 *to* Court,
from causing or permitting any sewage, or water polluted with sewage,

(*f*) See *Scott* v. *Stanford*, V.-C. W. 7 Feb. 1867, Reg. Lib. B. 528 (at the hearing): L. R. 3 Eq. 718. For a collection of cases as to injunctions relating to copyright, with forms of orders, see 1 Seton, 243—252.

(*g*) *Moxon* v. *Locker*, V.-C. J. 16 June, 1870, Reg. Lib. B. 1668.

(*h*) See *Hooper* v. *Campbell*, V.-C. S. 10 July, 1865, Reg. Lib. A. 1308. For injunction to restrain removal of hay from a farm, see *Hunt* v. *Brown*, M. R. 9 Feb. 1864, Reg. Lib. A. 195.

(*i*) For forms of order restraining pollution of water, see 1 Seton, 225—227. Nos. 1—4; and see *Ibid.*, 227—234. As to nuisances, see Dan. Pr. 1585—1588; 1 Seton, 222—225; and see, for forms of order, *Ibid.*, 219—222.

to pass through the drains or channels under their control into the river C., in such manner as to render the water of the said river at or near the plaintiff's mill, situate at (*State where*), unfit for use by the plaintiff, or otherwise injurious to the health of the persons resident at the said mill: until, *&c.*

1620. Notice of motion to restrain the getting in of partnership assets, or intermeddling with the business (*j*).

Proceed as in Form 1613 *to* Court,
from possessing himself of, getting in, or receiving, and from disposing of, charging, or encumbering, any part of the moneys, credits, property, assets, estate, or effects of, or belonging to the partnership business in the indorsement on the writ of summons mentioned; and from incurring any debts or debt in respect of the said business, and from carrying on, or in any manner interfering in, or intermeddling with, the said business, or any of the moneys, property, assets, or affairs thereof, without the consent of the plaintiff: until, *&c.*

1621. Notice of motion to restrain infringement of patent (*k*). [Dan. Pr. 1591.]

Proceed as in Form 1613 *to* Court,
from making and selling, or making or selling, any blue or purple violet dye made according to the process discovered in the specification of the letters patent in the indorsement on the writ of summons mentioned, or according to any process being a colourable imitation thereof; and from in any manner infringing the said letters patent: until, *&c.*

1622. Notice of motion to restrain the transfer of a ship's register, and sailing of the ship (*l*).

Proceed as in Form 1613 *to* Court,
from transferring on the register the ship marked or called No. 4, in the indorsement on the writ of summons mentioned, to any person or persons; and also to restrain the said defendant, his servants and agents, from removing the said ship out of the jurisdiction of this Court: until, *&c.*

1623. Notice of motion to restrain transfer of stock and payment of dividends (*m*). [Dan. Pr. 1593.]

Proceed as in Form 1613 *to* Court,
from transferring the £—— consolidated £3 per cent. annuities, standing in their names in the books of the Bank of England, or any part

(*j*) See *Sterry* v. *Truss*, V.-C. K. 18 Dec. 1865, Reg. Lib. B. 2401. As to injunctions in suits between partners, see Dan. Pr. 1501, 1502; 1 Seton, 255—259.

(*k*) See *Maule* v. *Eaton*, V.-C. W. 3 May, 1866, Reg. Lib. A. 879; and for further order, making the injunction perpetual, see S. C., V.-C. W. 8 Dec. 1866, Reg. Lib. B. 2671. As to injunctions in patent cases, see Dan. Pr. 1422—1424, 1439, 1591; 1 Seton, 343—357. For forms of order, see *Ibid.*, 343, 344, Forms 1—3.

(*l*) See *Borman* v. *Wilmott*, V.-C. W. 17 Mar. 1865, Reg. Lib. A. 513. As to injunctions to restrain the improper employment of a ship, or indorsement of the register, see Dan. Pr. 1595. For a collection of cases as to injunctions respecting ships, and forms of orders, see 1 Seton, 275—277.

(*m*) *Sullivan* v. *Plimpton*, V.-C. M. 11 Jan. 1869, Reg. Lib. B. 6.

thereof, and from receiving the dividends and interest due or to accrue due thereon; and that the Governor and Company of the Bank of England may be restrained from permitting such transfer, and from paying such dividends and interest: until, *&c.*

1624.

Notice of motion to restrain infringement of trade mark (*n*). [Dan. Pr. 1591.]

Proceed as in Form 1613 *to* Court,

from affixing, or causing to be affixed, to any casks of wine shipped to their, or any of their order, or used by them, or any of them, the brand or mark of a crown, and the word Seixo, or any other combination of marks or words so contrived as, by colourable imitation, or otherwise, to represent the marks or brands used by the plaintiff; and from employing, or permitting to be employed, any marks or brands, or words or other designation, in respect of wines offered for sale by the defendants, or any of them, which shall be so contrived as to represent, or to induce a belief, that such wines are Crown Seixo, or the produce of the quinta do Seixo, in the indorsement on the writ of summons mentioned; and also from describing, or offering for sale, the wines simply as Seixo wine; or otherwise using the word Seixo in respect of such wine, without clearly distinguishing the same from wine produced from the plaintiff's said quinta do Seixo: until, *&c.*

1625.

Notice of motion to restrain marrying ward of Court (*o*). [Dan. Pr. 1603.]

Formal parts: see Form 38.

on the part of the plaintiff [*or as may be*], that A. B., of, *&c.*, may be restrained, until further order, from intermarrying with the plaintiff C. D. [*or as may be*], and from having any intercourse or communication with the said C. D.

1626.

Notice of motion to restrain the felling of timber (*p*). [Dan. Pr. 1582.]

Proceed as in Form 1613 *to* Court,

from felling any timber or other trees standing or growing in the meadow, or in the hedge, situate (*State where*); and from cutting the

(*n*) See *Seixo* v. *Provezende*, V.-C. W. 17 Feb. 1865, Reg. Lib. B. 1067 (on motion for decree); Affd. L. C. 17 Jan. 1866, Reg. Lib. B. 199; L. R. 1 Ch. 192; 12 Jur. (N. S.) 215. For a collection of cases as to injunctions respecting trademarks and forms of orders, see 1 Seton, 234—243.

(*o*) See *Dawson* v. *Thomson*, V.-C. W. 28 Mar. 1865, Reg. Lib. A. 540. For order discharging order for committal of husband for marrying ward, on payment by him of the costs, see *Tredwell* v. *Gray*, V.-C. K. at Chambers, 14 Dec. 1866, Reg. Lib. B. 2698. As to the protection of wards from removal or marriage, see Dan. Pr. 1113, 1121, 1122, 1131. For cases and forms of order, see 2 Seton, 745—751, 758—765.

(*p*) For interim order in like case, see *Ridgway* v. *Ridgway*, V.-C. W. 23 May, 1866, Reg. Lib. A. 901. As to waste and trespass, see Dan. Pr. 1581—1585; Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 25, sub-s. 8. For a collection of cases and forms of orders for injunctions, see 1 Seton, 185—195.

said hedge, or the underwood thereof; and from committing any other waste, or otherwise interfering with, the said meadow, or trees, or hedge: until, *&c.*

1627.

Notice of injunction having been granted (*q*). [Dan. Pr. 1616, 1623.]

Formal parts: see Form 37.

Take notice that his lordship Mr. Justice —— has this day made an order herein, whereby you, your servants and agents [*or as may be*], are restrained by injunction of this Court from (*State terms of the injunction*).

And take notice also that the said order will be drawn up, and served upon you, as soon as practicable.

If ex parte, add: And that true copies of the affidavits whereon the said order was made are served herewith [*or*, will be served with a copy of the said order].

1628.

Affidavit of service of order for injunction. [Dan. Pr. 1617.]

(*Same as* Form 32.)

1629.

Notice of motion to dissolve an interlocutory injunction (*r*). [Dan. Pr. 1617.]

Formal parts: see Form 38.

on the part of the defendant A. B., that the order made herein dated the —— day of ——, 188—, may be discharged, or varied, and the injunction thereby awarded may be dissolved; and that the costs of and incident to such order and consequent thereon and of this application may be paid by the plaintiff.

1630.

Notice of motion to discharge, for irregularity, order awarding injunction. [Dan. Pr. 1618, 1626.]

Formal parts: see Form 38.

on the part of the defendant A. B., that the order dated the —— day of ——, 188—, made in this action, on the application of the plaintiff, whereby it was ordered that (*State what*), may be discharged on the ground of irregularity in the following particulars, viz. (*Show the objections intended to be insisted upon* (*s*)), with costs to be paid by the plaintiff to the said defendant.

1631.

Notice of motion to commit for breach of injunction (*t*). [Dan. Pr. 1624.]

(*Same as* Form 1013.)

(*q*) As to service of a copy of the Registrar's minutes of the order, see Dan. Pr. 1616; 1 Seton, 174.

(*r*) For form of order, see 1 Seton, 291, No. 1. As to dissolving an injunction, see *Ibid.*, 292—294.

(*s*) See R. S. C. Ord. LXX. 3.

(*t*) For forms of order, see 1 Seton, 295, Nos. 1, 2. For form of order for a sequestration on breach of an undertaking, *Ibid.*, 296, No. 4; and see, as to breach of injunction, *Ibid.*, 296—298.

Section II.—Restraining Orders under 5 Vict. c. 5, s. 4 (*m*).

(*Dan. Pr.*, pp. 1627—1629, ccccxii.)

1632.

Motion paper for a restraining order (*n*). [Dan. Pr. 1628.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge.*)

In the matter of the Act of Parliament, 5th Victoria, chapter 5, intituled "An Act to make further provisions for the administration of justice"; and in the matter of A. B.

Mr. C.

To move on behalf of the said A. B., of (*residence and addition*), for an order to restrain the Bank of England [*or as may be*] from permitting the transfer of £—— consolidated £3 per cent. annuities [*or as may be*], standing in the name of C. D. in their books; and from paying any dividend due, or to become due thereon.

An affidavit in support accompanies.

(*Add name, &c., of solicitor or party instructing: see* Form 37).

1633.

Petition for the like. [Dan. Pr. 1628.]

(*Title as in* Form 1632, *and reference to the record*) (*nn*).

To Her Majesty's High Court of Justice.

The humble petition of the above-named A. B., of (*residence and addition*).

Showeth as follows:

1. } (*Set forth, concisely, in numbered paragraphs, the circumstances on*
2. } *which the petitioner relies to induce the Court to make the order.*)
3. }

Your petitioner therefore humbly prays, that the Governor and Company of the Bank of England [*or as may be*] may be restrained from permitting the transfer of the said £—— consolidated £3 per cent. annuities [*or as may be*], and from paying any dividend due or to become due thereon, until further order.

1634.

Notice of motion to discharge the order (*o*). [Dan. Pr. 1629.]

Formal parts: see Form 38.

on the part of C. D., of (*residence and addition*), that the order in this matter dated the —— day of ——, 188—, whereby it was ordered that (*Recite the mandatory part of the order*) may be discharged: with costs to be paid by the said A. B. to the said C. D.

(*m*) See 5 Vict. c. 5, s. 4; 1 Seton, 283—285.

(*n*) For form of order, see 1 Seton, 283, No. 2; and see *Re Blakesley*, 23 Ch. D. 549, where an interim order restraining the transfer until over the next motion day was made.

(*nn*) See R. S. C. Ord. V. 9 (*d*); and note (*k*) at p. 689.

(*o*) See 5 Vict. c. 5, s. 4.

Section III.—Restraining Transfer of Stock, or Shares, or Dividends thereon, under R. S. C. Ord. XLVI. (*p*).

(*Dan. Pr.*, pp. 1629—1633, ccccxii.—ccccxiii.)

(*p*) *Restraining Transfer of Stock, &c.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Writ of distringas *abolished.*—No writ of *distringas* is to be issued under 5 Vict. c. 5, s. 5	XLVI. 2.
Meaning of terms employed.—The expression "company" includes the Governor and Company of the Bank of England and any other public company, and the expression "stock" includes shares, securities, and money	,, 3.
Filing and service of affidavit and notice.—Any person claiming to be interested in any stock standing in the books of a company, may, on an affidavit by himself or his solicitor in the prescribed form, and on filing the same at the Central Office with a notice in the prescribed form, and on procuring an office copy of the affidavit and a duplicate of the notice authenticated by the Central Office seal, serve such office copy and duplicate notice on the company	,, 4.
Address of claimant to be stated.—A note must be appended to the affidavit stating the person on whose behalf it is filed, and to what address notices are to be sent	,, 5.
Service of notices.—Notices may be sent through the post by prepaid letter	,, 6.
Alteration of address.—The address may be altered by the person filing the affidavit: such alteration will not affect notices sent before the alteration to the original address. The alteration may be made by service of a memorandum thereof . .	,, 7.
Effect of service of affidavit and notice.—Service of the affidavit and notice will have the same force and effect against the company as a writ of *distringas* would have had	,, 8.
Withdrawal or discharge of notice.—A notice filed under rule 4 may be withdrawn on a written request of the person by whom it was given, or its operation made to cease by an order to be obtained by motion on notice or by petition or summons served by any person claiming interest in the stock sought to be affected by the notice	,, 9.
Effect of request for transfer of stock.—If, whilst the notice continues in force, the company receive a request from, or on behalf of, the person in whose name the stock is standing, to permit the stock to be transferred or to pay the dividends thereon, the company shall not be authorised, without the order of the Court or a Judge, to refuse to permit the transfer to be made, or to withhold the payment of the dividends, for more than *eight days* after the date of the request . . .	,, 10.
Amendment of description of stock.—The description of the stock in the filed notice may be corrected, by filing an amended notice, and serving on the company a duplicate thereof under the seal of the Central Office, and in such case the service of the notice will be deemed to have been made on the day on which the amended duplicate is served	,, 11.

1635.

Affidavit as to stock (*q*). [Dan. Pr. 1630.]

In the High Court of Justice,
Chancery Division.
In the matter of (*Here state the nature of the document com-*

(*q*) See R. S. C. Ord. XLVI. 4, App. B., 27; and note (*p*), *supra*.

prising the stock, and add the date and other particulars, so far as known to the deponent, sufficiently to identify the document; as thus:

In the matter of the settlement dated the —— day of ——, 188—, made between E. F., of the first part, G. H., of the second part, and M. N. and O. P. of the third part),

and

In the matter of the Act of Parliament, 5 Vict. c. 5.

I, A. B., of ——, in the county of —— (*description*), make oath and say that according to the best of my knowledge, information and belief, I am [*or, if the affidavit is made by the solicitor,* A. B., of, *&c.*, is] beneficially interested in the stock comprised in the (*settlement, will, &c.*) above mentioned, which stock, according to the best of my knowledge and belief, now consists of the stock specified in the notice hereto annexed.

Sworn (*&c: as in* Form 9).

This affidavit is filed on behalf of A. B., whose address is (*State address for service* (*r*)).

1636.

Notice as to stock (*s*). [Dan. Pr. 1631.]

(*Title as in* Form 1635.)

To the (*Here add the name of the Company; as thus:* the Continental Gas Company).

Take notice that the stock comprised in and now subject to the trusts of the (*settlement, will, &c.*) referred to in the affidavit to which this notice is annexed consists of the following, that is to say (*Here specify the stock*).

This notice is intended to stop the transfer of the stock only, and not the receipt of dividends [*or*, the receipt of the dividends on the stock, as well as the transfer of the stock].

Signed (*Here state the name and address of the person giving the notice, or of his solicitor*).

1637.

Memorandum of alteration of address (*t*). [Dan. Pr. 1631.]

(*Title as in* Form 1635.)

To the (*Here add the name of the Company*).

Take notice that my address [*or*, the address of A. B.] is now ——, instead of —— mentioned in the affidavit and notice filed by me [*or*, on my behalf—*or*, by—*or*, on behalf of the said A. B.] on the —— day of ——, 188—.

Signed (*Here state the name and address of the person giving the notice, or of his solicitor*).

(*r*) See R. S. C. Ord. XLVI. 5, 7; and note (*p*), *supra*.

(*s*) See R. S. C. Ord. XLVI. 4, App. B. 22; and note (*p*), *supra*. On filing the affidavit and notice a fee of 10*s.* is payable: by a stamp impressed on the affidavit: Ord. as to S. C. Fees, 1884, Sched. No. 34; Ord. as to Fees, &c., July, 1884, p. 7. As to amending the notice, see R. S. C. Ord. XLVI. 11; and note (*p*), *supra*; Dan. Pr. 1631.

(*t*) See R. S. C. Ord. XLVI. 7; and note (*p*), *supra*.

1638.

Request to withdraw notice (*v*). [Dan. Pr. 1632.]

(*Title as in* Form 1635.)

To the (*Here add the name of the Company*).

Take notice that I [*or*, we] hereby request you to withdraw the notice given by me [*or*, us—*or*, on my—*or*, our behalf], on or about the —— day of ——, 188— (*If so, add:* by my [*or*, our] solicitor, Mr. Y. Z.), which notice restrained the transfer of £—— (*amount of stock*) standing in the name of (*Here add the names of the persons in whose names the stock is standing*).

If the dividends were stopped, add: and the dividends due and to accrue due thereon.

Dated this —— day of ——, 188—.

(Signed) A. B., of ——.

Witness to the signature of A. B. (*w*).

1639.

Notice of motion or summons for cesser of operation of notice (*x*). [Dan. Pr. 1632.]

Title, see Form 1635; *other formal parts, see* Form 38, *or* 43, *or* 1077. on the part of G. H., of (*address and addition of applicant*), that the operation of the notice filed on the —— day of ——, 188—, by A. B., of ——, pursuant to the Rules of the Supreme Court, Order XLVI., rule 4, with reference to the sum of £—— stock comprised in the (*settlement, will, &c., as the case may be*) above mentioned [and any dividend due thereon], do cease; and that notwithstanding such notice the said sum of stock [*If so:* and the dividends due and to become due thereon] may be transferred [and paid] to the said G. H.

1640.

Request to transfer stock, &c. (*y*). [Dan. Pr. 1632.]

To the (*Here add the name of the Company*).

I request you to allow the transfer of and payment of dividends on, the sum of —— (*Describe the stock*) standing in the name of ——.

Dated this —— day of ——, 188—.

Signed (*Here add the name and address of the person giving the notice, or of his solicitor*).

1641.

Notice by Bank of England of request to transfer stock, &c. [Dan. Pr. 1632.]

(*Title as in* Form 1635.)

An application having been made to the Governor and Company of the Bank of England, to allow the transfer, and to pay the dividends on the sum of £—— standing in the name of ——; and whereon a restraint has been placed in consequence of an affidavit and notice issued by you in or about the month of ——, 188—: We do hereby give you notice, that unless an order is obtained and served on or before the

(*v*) See R. S. C. Ord. XLVI. 9; and note (*p*), *supra*.

(*w*) The Bank of England requires the witness attesting the signature to be a solicitor in actual practice.

(*x*) See R. S. C. Ord. XLVI. 9; and note (*p*), *supra*.

(*y*) See R. S. C. Ord. XLVI. 10; and note (*p*), *supra*.

—— day of ——, 188—, the Bank will permit the stock to be transferred and the dividends to be paid.

Dated the —— day of ——, 188—.

(*Name and address of the solicitors to the Bank of England.*)

To Mr. —— (*Name and address of person issuing the notice*).

Section IV.—Stop Orders (*z*).

(*Dan. Pr.*, pp. 1633—1637, ccccxiii.)

1642. Summons for a stop order on an entire fund in Court (*a*). [Dan. Pr. 1634.]

Formal parts: see Form 43, *or* 1077.

on the part of A. B., of (*residence and addition*), that no part of the (*Describe the fund to be affected, and how it stands in the Paymaster's books: according to his certificate; as thus:* £—— consolidated £3 per cent. annuities, and £—— cash in Court on the credit of this action, B. *v.* D., 188—, B. 100, "The account of C. D."), to which the plaintiff C. D.

Or, defendant C. D.; *or*, C. D., of (*residence and addition*), is (or may become] entitled,

If so: or of any dividends to accrue due on the said annuities,

may be transferred, sold, paid out, or otherwise disposed of, without notice to the said A. B.

1643. Summons for a stop order on a share of a fund in Court (*b*). [Dan. Pr. 1634.]

Formal parts: see Form 43, *or* 1077.

on the part of A. B., of (*residence and addition*), that no part of the (one-third or other) share to which the plaintiff C. D.

Or, defendant, C. D.—*or*, C. D., of (*residence and addition*), is (or may become) entitled of the (*Describe the fund, &c., as in* Form 1642),

If so: or of any dividends to accrue due on the said annuities,

may be transferred, sold, paid out, or otherwise disposed of, without notice to the said A. B.

1644. Affidavit in support of summons (*c*). [Dan. Pr. 1634.]

Formal parts: see Form 6.

Show the assignor's title; as thus: 1. W. O., the testator in the pleadings in this action named, bequeathed to trustees the sum of

(*z*) As to stop orders, see 1 Seton, 300—305. As to charging orders on funds in Court, and stop orders in aid of charging orders, see Forms 1050—1052. As to the liability for costs of a person obtaining a stop order, see Dan. Pr. 1635; R. S. C. Ord. XLVI. 12. As to the parties to be served, see Dan. Pr. 1635; R. S. C. Ord. XLVI. 13.

(*a*) The application should be made by summons: see *Walsh* v. *Wason*, 22 W. R. 678. The assignor and assignee may be co-applicants. For form of order, see 1 Seton, 300, No. 1.

(*b*) For form of order, see 1 Seton, 300, No. 2. For other forms of orders, *Ibid.*, 300—303.

(*c*) The title of the assignor may often be established by production of documents in the action, without an affidavit thereof. The application must, in every case, be supported by the Paymaster's certificate of the fund. An affidavit

£10,000 reduced £3 per cent. annuities, on trust for his daughter H. D., widow, for her life, and, at her decease, for her children in equal shares.

2. The said £10,000 reduced £3 per cent. annuities is now in Court on the credit of this action, B. *v.* D., 188—, B. 100, "The account of H. D. and her children," and by an order made in the said action, dated the —— day of ——, 188—, the dividends to accrue during the life of the said H. D. on the said fund are directed to be paid to her.

3. The above-named defendant C. D., as one of the three children of the said H. D., is entitled in remainder, expectant on the death of the said H. D., to one-third share of the said reduced annuities.

4. *Show the assignment to, or other title of, the assignee; as thus:* By an indenture dated the —— day of ——, 188—, and made between the said C. D., of the one part, and A. B., of ——, of the other part, the said C. D., for the considerations therein mentioned, assigned his said one-third share of the said £10,000 reduced £3 per cent. annuities unto the said A. B., his executors, administrators, and assigns, absolutely, by way of sale [*or,* mortgage]; and authorised him and them to receive and give discharges for the said share [*or as may be*].

5. *Prove assignor's execution of the assignment; as thus:* The said indenture is the parchment writing, marked A., now produced and shown to me (*d*). I saw the said C. D. execute the said indenture. The name or signature "——," subscribed to the said indenture, as one of the parties executing the same, is of the proper handwriting of the said C. D.; and the name or signature "——," subscribed to the attestation of such signature indorsed on the said indenture, is of my proper handwriting.

Or, 5. I am well acquainted with the handwriting of the said C. D.: having seen him write. The name or signature "——," subscribed to the said indenture, as one of the parties executing the same, is of the proper handwriting of the said C. D.

6. (*Show means of knowledge.*)

1645. Summons to substitute assignee of a restraining party (*e*). [Dan. Pr. 1637.]

Formal parts: see Form 43, *or* 1077.

on the part of L. M., of (*residence and addition*), that the notice required by the order dated the —— day of ——, 188— (*former stop order*), to be given to A. B. previous to the transfer, sale, payment out, or other disposition of the (*Describe the fund, and how it stands, as in the former stop order*) therein mentioned may instead thereof be given to the said L. M.

---

proving the title of the assignee is not required if the assignor joins in the application, or appears and admits the assignee's title; but the document under which the assignee claims title must be produced.

(*d*) Exhibit it. For form of memorandum of exhibit, see Form 28.

(*e*) For form of order, see 1 Seton, 301, No. 9. The summons must be supported by an affidavit proving the assignment, unless the assignor joins in the application, or appears and admits the fact.

1646.

Another form thereof (*ee*). [Dan. Pr. 1637.]

Formal parts: see Form 43, *or* 1077.

on the part of L. M., of (*residence and addition*) that the said L. M. may be substituted for A. B., in the order dated the —— day of ——, 188— (*former stop order*), named, as the person to whom notice is to be given before any transfer, sale, payment out, or other disposition is made of the annuities [*or as may be*], in the said order mentioned.

1647.

Summons for discharge of a stop order (*f*). [Dan. Pr. 1637.]

Formal parts: see Form 43, *or* 1077.

on the part of C. D., in the order dated the —— day of ——, 188—, named,

Or, C. D., of (*residence and addition*),

that the (said) order dated the —— day of ——, 188—, whereby it was ordered

Or, that so much of the order dated the —— day of ——, 188—, as directs

that (*Recite, concisely, the order or restraining clause*) may be discharged (*if it is sought to discharge the order on the ground of irregularity, the objections intended to be insisted upon must be shown* (*g*)).

If costs are asked, add: with costs to be paid by the said A. B. to the applicant.

(*ee*) See note (*e*) *supra*.

(*f*) For form of order, see 1 Seton, 303, No. 13.

(*g*) See R. S. C. Ord. LXX. 3.

CHAPTER XXV.

ACTION OF MANDAMUS (*a*).

(*Dan. Pr.*, pp. 1638—1642, ccccxiii.)

(*a*) *Mandamus.—Summary of Material Provisions of R. S. C.* 1883.

	ORDER.
Indorsement on writ of summons.—The plaintiff, in any action in which he claims a mandamus to command the defendant to fulfil any duty in the fulfilment of which the plaintiff is personally interested, must indorse such claim upon the writ of summons: such indorsement being in the prescribed form (App. A. Pt. III. Sect. IV.)	LIII. 1, 2.
Order upon defendant to perform duty.—If judgment be given for the plaintiff, the Court or Judge may by the judgment command the defendant to perform the duty in question either forthwith or on the expiration of such time as may appear to the Court or Judge to be just. The time may be extended .	,, 3.
Mandamus in action to be by judgment or order.—No writ of mandamus can be issued, but a mandamus must be by judgment or order, which has the same effect as a writ of mandamus formerly had	,, 4.
Court may order act to be done at expense of party refusing.—If a mandamus be not complied with, the Court or Judge may direct that the act required to be done may be done by the party obtaining the order, at the cost of the disobedient party; and the expenses incurred may be ascertained in such manner as may be directed, and execution may issue for the amount so ascertained, and costs	XLII. 30.
Interlocutory application.—An application for an order under Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 25, subs. 8, may be made by any party: if the application be by the plaintiff, it may be either *ex parte* or with notice: if by any other party, it must be made on notice to the plaintiff, at any time after appearance by the party making the application .	L. 6.

As to an action of mandamus, see Chitty's Arch. 913—915; Chitty's Forms, 636, 637.

1648.

The plaintiff's claim is for a mandamus commanding the defendant to (*Here state concisely the precise duty, the performance of which it is sought to enforce*).

Indorsement on writ of summons of claim for mandamus (*b*). [Dan. Pr. 1639.]

(*b*) See R. S. C. Ord. LIII. 1, 2; App. A., Part III., Sect. IV.; and note (*a*), *supra*. As to prerogative writ of mandamus, which may be granted by the Queen's Bench Division, see R. S. C. Ord. LIII. 5—15; Corner's Crown Prac.; Arch. Crown Prac.; Tapping on Mandamus.

1649.

Notice of motion for a *mandamus* to issue (*c*). [Dan. Pr. 1641.]

Formal parts: see Form 38.

on the part of the plaintiff [*or as may be*], that a mandamus may be granted commanding the defendant C. D. to (*Here state the duty to be fulfilled*).

(*c*) A *mandamus* may be granted by an interlocutory order of the Court in all cases in which it appears to the Court to be just or convenient that such order should be made; and any such order may be made either unconditionally or upon such terms and conditions as the Court may think just: Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 25, sub-s. 8. See R. S. C. Ord. L. 6; and note (*a*), *supra*; *Re Paris Skating Rink Co.*, 6 Ch. D. 731; *Glossop* v. *Heston, &c., Local Board*, 12 Ch. D. 102.

CHAPTER XXVI.

THE WRIT OF PROHIBITION (*a*).

(*Dan. Pr.*, pp. 1643—1647, ccccxiii.)

1650.

Præcipe for writ (*b*). [Dan. Pr. 1644.]

In the matter of a certain plaint, now depending in the Court of —— (*Insert style of inferior Court*), between A. B., plaintiff, and C. D., defendant.

Seal a writ of prohibition, directed to the Judge of the Court of —— (*Style of inferior Court*), and to the above-named A. B., to prohibit them from further proceeding in the said plaint.

Dated —— day of ——, 188—.

(*Name and address of solicitor or party issuing writ; see* Form 3 *or* 4).

1651.

Writ of prohibition (*c*) [Dan. Pr. 1643, 1644.]

Victoria (*&c.: see* Form 196).

To the Judge of the Court of —— (*Insert style of inferior Court*), and to A. B., of (*address and description*), greeting:

Whereas, we have been given to understand that you, the said A. B.,

(*a*) As to the writ of prohibition, see Com. Dig. Prohibition; Stephen's Commentaries, 9th ed., vol. iii., p. 623; 1 Seton, 333—337; Morgan Lloyd on Prohibition. As to a writ of prohibition to a County Court, see Chitty's Arch. 1446—1449. Where pleadings in prohibitions are ordered, the pleadings and subsequent proceedings, including judgment and assessment of damages, if any, are, as nearly as may be, the same as in an ordinary action for damages: R. S. C. Ord. LXVIII. 3.

(*b*) See R. S. C. App. G., Part I., No. 14. The *præcipe* must bear a 5*s.* stamp impressed thereon: Ord. as to S. C. Fees, 1884. Sched. No. 6; Ord. as to Fees, &c., July, 1884, p. 4.

(*c*) See R. S. C. App. J., No. 11. The writ issues as of course out of the Central Office, without any order, upon production of an affidavit, stating the proceedings in the inferior Court, and showing clearly and distinctly that the inferior Court has no jurisdiction in respect of such proceedings, or is exceeding its jurisdiction: see *Jacobs* v. *Brett*, L. R. 20 Eq. 1, at p. 5; *Chambers* v. *Green*, L. R. 20 Eq. 552. It may issue on the application of any person, either a party to the proceeding in the inferior Court, or a stranger: *Jacobs* v. *Brett*, *ubi supra*, at pp. 5, 6; but as to setting aside the writ where it is issued at the instance of a stranger, see *Chambers* v. *Green*, L. R. 20 Eq. 552; *Ellis* v. *Fleming*, 1 C. P. D. 237. Where there is an absence of jurisdiction altogether in the inferior Court, the writ may be issued at once; but where the inferior Court has a general jurisdiction in respect of the subject-matter, the writ cannot be issued until the pleadings raise some issue which the inferior Court is incompetent to try: *Mayor, &c., of London* v. *Cox*, L. R. 2 H. L. (Eng. and Ir. App. Ca.), 239; and the writ may be issued after

have entered a plaint against C. D. in the said Court, and that the said Court has no jurisdiction in the said cause, or to hear and determine the said plaint, by reason (*Here state the facts showing want of jurisdiction*).

We therefore hereby prohibit you from further proceeding in the said plaint in the said Court.

If judgment has been obtained in the inferior Court, add: or on the judgment obtained therein.

Witness (*&c.: Conclude as in* Form 196).

1652.

Indorsement thereon. [Dan. Pr. 1644.]

(*Same as* Form 3 *or* 4.)

1653.

Notice of motion to discharge writ of prohibition. [Dan. Pr. 1644.]

Formal parts: see Form 38.

on behalf of A. B., that the writ of prohibition herein sued out by C. D. may be discharged on the ground that (*Show the objections intended to be insisted upon* (*d*)); and that the said C. D. may be ordered to pay the costs of this application.

1654.

Summons for a writ of prohibition to issue to a County Court (*e*). [Dan. Pr. 1646.]

(*Title as in* Form 1650.)

Let ——, esquire, the Judge of the County Court of ——, and A. B., of ——, in the county of ——, attend at the Chambers of Mr. Justice ——, at the Royal Courts of Justice, at the time specified in the margin hereof, upon the application of C. D., of ——, in the county of ——, to show cause why a writ of prohibition should not issue to prohibit the said Judge from further proceeding in a plaint in the said County Court, wherein the said A. B. is the plaintiff and the said C. D. is the defendant, upon the ground that the said Court has no jurisdiction to hear or determine the said plaint.

Dated the —— day of ——, 188—.

This summons (*&c.: Conclude as in* Form 1078).

Note (*as in* Form 1078).

---

judgment, or even after execution: Com. Dig. Prohibition (D). The affidavit upon which the writ issues may be entitled in the matter of the proceeding in the inferior Court. The writ should be served upon the Judge of the inferior Court, and also upon the parties to the proceeding there; and if the Judge or any party proceeds after the prohibition, it is a contempt of Court: Com. Dig. Prohibition (C).

(*d*) See R. S. C. Ord. LXX. 3.

(*e*) See 13 & 14 Vict. c. 61, s. 22; 19 & 20 Vict. c. 108, ss. 40, 41, 44; Chitty's Forms, 783. For form of affidavit, see Chitty's Forms, 782.

CHAPTER XXVII.

THE WRIT OF NE EXEAT REGNO AND ARREST OF ABSCONDING DEBTORS.

(*Dan. Pr.*, pp. 1648—1663, cccxiii.)

Section I.—The Writ Ne Exeat Regno (*a*).

(*Dan. Pr.*, pp. 1648—1660.)

1655. Indorsement of claim of writ on writ of summons. [Dan. Pr. 1652.]

That Her Majesty's writ of *ne exeat regno* may issue out of, and under the seal of the Central Office of the Supreme Court of Judicature, to restrain the defendant C. D. from departing out of the jurisdiction of this Court.

1656. Motion paper for the writ (*b*). [Dan. Pr. 1653.]

Formal parts: see Form 36.

To move on behalf of the plaintiff, that a writ or writs of *ne exeat regno* may issue against the defendant C. D.; to be marked for security in £——.

An affidavit in support accompanies.

1657. Summons for the writ, where proceedings are commenced by originating summons. [Dan. Pr. 1653, note (*p*).]

Formal parts: see Form 43 *or* 107.

on the part of the plaintiff, that a writ or writs of *ne exeat regno* may issue against the defendant C. D.

1658. Affidavit in support of application for the writ (*c*). [Dan. Pr. 1654.]

(*Title and reference to the record.*)

I, A. B., of (*residence and addition*), the above-named plaintiff, make oath and say, as follows:

1. *State, concisely, the institution and object of the action or other pro-*

(*a*) As to this writ, see 1 Seton, 315—317; Beames on *Ne exeat*. As to when the writ will be issued, see Dan. Pr. 1648—1653; how granted, *Ibid.*, 1653—1657; how executed, *Ibid.*, 1657; and how discharged, *Ibid.*, 1658—1660.

(*b*) For form of order, see 1 Seton, 315, No. 1.

(*c*) In case of an *ex parte* application for the writ, the party making the application for the writ must furnish copies of the affidavits upon which it is granted, upon payment of the proper charges, immediately upon the receipt of an application for such copies, and an undertaking to pay the proper charges, or within such time as may be specified in such application, or as may have been directed by the Court or a Judge: R. S. C. Ord. LXVI. 7 (*j*).

ceeding; as thus: This action was commenced by me on the —— day of ——, 188—, against the above-named defendant C. D., to obtain an account of all moneys received by the said defendant for me, or on my account, or for my use, as my agent in the management of my estate called E., in the county of ——, and of the application of such moneys, and for payment by the said defendant to me of what, on taking such account, shall be found due from him to me.

2. *State the existence of a debt due from the defendant; as thus:* The two accounts now produced and shown to me, and marked respectively A. B. 1 and A. B. 2 (*d*), have been rendered to me by the said defendant, and purport to be his accounts as such agent as aforesaid. It appears by the said accounts that the said defendant is indebted to me in the sum of £——, on balance thereof. I have investigated the said accounts, and I positively say that [*or*, and to the best of my belief] the said defendant C. D. is now justly and truly indebted to me in the sum of £——, and upwards, on the balance of the said accounts [*or as may be*].

3. *Show defendant's intention to go abroad; and deponent's means of knowledge.*

4. From the facts aforesaid, and for the reasons hereinbefore stated, I verily believe that the said defendant C. D., unless he be forthwith apprehended, will depart out of the jurisdiction of this honourable Court; and that the debt due to me as aforesaid from the said defendant will be in danger of being lost to me by the said defendant quitting the said jurisdiction.

Sworn (*&c.: see* Form 9).

1659.

Undertaking as to damages on behalf of infants (*e*). [Dan. Pr. 1655.]

(*Short title and reference to the record.*)

I undertake to pay any sum which this Court may hereafter direct, by way of damages to the defendant C. D., by reason of a writ of *ne exeat regno* being issued against him at the instance of the plaintiff.

Dated this —— day of ——, 188—.

X. Y., the plaintiffs' next friend.

1660.

Præcipe for the writ (*f*). [Dan. Pr. 1656.]

(*Title and reference to the record.*)

B. v. D. } Seal a writ of *ne exeat regno*, directed to the Sheriff of ——, against the defendant C. D.

Security in the sum of £——.

Order (*directing the writ to issue*) dated —— day of ——, 188—.

Dated —— day of ——, 188—.

(*Name, &c., of solicitor or party issuing the writ: see* Form 3 *or* 4.)

(*d*) Exhibit same. For form of memorandum of exhibit, see Form 28.

(*e*) See 1 Seton, 317.

(*f*) The order must be produced at the time the writ is presented for sealing.

1661.
General form of the writ (*g*).
[Dan. Pr. 1656.]

Proceed as in Form 935, *to* "greeting;" *and continue thus:*

Whereas it is represented unto us, in our High Court of Justice, on the part of A. B., complainant, against C. D., defendant, amongst other things, that he the said defendant is greatly indebted to the said complainant, and designs quickly to go into parts beyond the seas: as by oath made in that behalf appears: which tends to the great prejudice and damage of the said complainant; Therefore, in order to prevent this injustice, we do hereby command you, that you do, without delay, cause the said C. D. personally to come before you, and give sufficient bail or security, in the sum of —— (*Amount mentioned in the order for the writ*), that he the said C. D. will not go, or attempt to go, into parts beyond the seas, without leave of our said Court. And in case the said C. D. shall refuse to give such bail or security, then you are to commit him, the said C. D., to our next prison: there to be kept in safe custody until he shall do it of his own accord. And when you shall have taken such security, you are forthwith to make and return a certificate thereof to our said High Court of Justice, distinctly and plainly under your seal, together with this writ.

Witness (*&c.: Conclude as in* Form 935).

1662.
Indorsement on the writ.
[Dan. Pr. 1656.]

Take security in the sum of (*State in words at length the sum mentioned in the order*).

(*Name, &c., of solicitor or party issuing the writ: see* Form 3 *or* 4.)

1663.
Bond to the sheriff in pursuance of writ.
[Dan. Pr. 1657.

Know all men by these presents that we C. D. of (*address and description*), E. F. of, *&c.*, and G. H. of, *&c.*, are jointly and severally held and firmly bound to X. Y., esquire, sheriff of the county of ——, in the sum of £—, of good and lawful money of Great Britain, to be paid to the said X. Y., his certain attorney, executors, administrators, or assigns: for which payment to be well and faithfully made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, firmly by these presents sealed with our seals. Dated this —— day of ——, 188—.

Whereas by a writ of *ne exeat regno*, dated the —— day of ——, 188—, issued out of Her Majesty's High Court of Justice, in a certain action there depending, wherein A. B. is plaintiff, and the said C. D. is defendant, to the said sheriff directed and delivered, the said sheriff was commanded without delay to cause the said C. D. to come before him

(*g*) On issuing the writ, a fee is payable of 5*s.*: by a stamp impressed on the *præcipe:* Ord. as to S. C. Fees, 1884, Sched. No. 6; Ord. as to Fees, &c., July, 1884, p. 4. As to the delivery, execution, and return of the writ, see Dan. Pr. 1657.

and give sufficient bail or security in the sum of £——, that he the said C. D. will not go or attempt to go into parts beyond the seas, without the leave of the said High Court of Justice.

Now the condition of the above written obligation is such, that if the above bounden C. D. shall not go, or attempt to go, into parts beyond the seas, or into Scotland, without the leave of Her Majesty's High Court of Justice, then the above written obligation is to be void, or else to remain in full force and virtue.

C. D. [L. S.]
E. F. [L. S.]
G. H. [L. S.]

Signed, sealed, and delivered by the above-bounden C. D., E. F., and G. H. in the presence of
L. M., of (*Residence and addition*).

1664. Notice of motion for the discharge of the writ (*h*). [Dan. Pr. 1658.]

Formal parts: see Form 38.

on the part of the defendant C. D.:

1. That the writ of *ne exeat regno* issued against him, pursuant to the order dated the —— day of ——, 188—, and the said order, may be discharged with costs, including the costs of this application; and that the plaintiff may be ordered to pay such costs to the said defendant. (*If the ground of the application is irregularity, the objection intended to be insisted upon must be stated* (*i*).)

2. That the bond given by the said defendant to the Sheriff of ——, pursuant to the said order and writ, may be delivered up to be cancelled.

3. That an inquiry may be made what damages have been sustained by the said defendant by reason of the said order having been made (*j*).

4. That the plaintiff may be ordered, pursuant to his undertaking contained in the said order, to pay to the said defendant, within (one month) after the date of the Chief Clerk's certificate of the result of such inquiry, what shall be thereby certified in respect of such damages.

(*h*) Where a defendant claims damages in respect of a writ of *ne exeat regno*, alleged to have been improperly issued against him, he should move to discharge the writ before the hearing; otherwise, he will be taken to have submitted to it: *Lees* v. *Patterson*, 7 Ch. D. 866. For forms of order, see 1 Seton, 315, 316, Nos. 2, 3. The judgment in the action ought in terms to discharge the sureties to the bond; but even after judgment they may themselves apply, for the process is a mesne process intended to keep the defendant within the jurisdiction until final judgment is pronounced, and upon judgment being given the sureties are entitled to be discharged: *Re Hands, Hands* v. *Hands*, Chitty, J., 20 Feb., 1882. (*Ex relatione*, Mr. Ashton Cross.)

(*i*) See R. S. C. Ord. LXX. 3.

(*j*) See Dan. Pr. 1659; 1 Seton, 316, No. 3.

Section II.—Arrest of Absconding Debtors (*k*).

(*k*) *Arrest under the Debtors Act.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Form of order to arrest.—An order to arrest (App. K. No. 31) may be made upon affidavit and *ex parte*, but defendant may at any time after arrest apply to rescind or vary the order, or to be discharged from custody, or for other relief	LXIX. 1.
Indorsement on order to arrest.—An order to arrest must before delivery to the sheriff be indorsed with the plaintiff's address for service. Concurrent orders may be issued for arrest in different counties	,, 2.
Security to be given by defendant.—The security to be given by the defendant may be (*a*) deposit in court of the amount mentioned in the order, or (*b*) a bond by the defendant and two sufficient sureties (or, with special leave, one surety or more than two), or (*c*) with plaintiff's consent, any other form of security. Within *four days* after receiving the names of the proposed sureties, plaintiff may give notice that he objects thereto, stating particulars of his objections. The sufficiency of the security must be determined by a master, upon an appointment obtained by the plaintiff, and unless he does so within *four days* after notice of objection, the security will be deemed sufficient	,, 3.
Control of the Court.—The money deposited, and the security, and all proceedings thereon, are subject to the order and control of the Court or a Judge	,, 4.
Costs of order of arrest.—Unless otherwise ordered, are costs in the cause	,, 5.
Discharge of defendant.—Upon payment into Court of the amount mentioned in the order a receipt must be given; and upon receiving the bond or other security, a certificate to that effect must be given, signed or attested by the plaintiff's solicitor, or by the plaintiff if he sue in person. The delivery of such receipt or certificate to the sheriff entitles the defendant to be discharged	,, 6.
Date of arrest.—Must be indorsed on the order by the sheriff or other officer, within *two days* after the arrest	,, 7.

See the Debtors Act, 1869 (32 & 33 Vict. c. 62), s. 6; Chitty's Arch. 645—725; Chitty's Forms, 743—770.

1665. Motion paper or summons for order to arrest (*l*). [Dan. Pr. 1661.]

Formal parts: see Form 36, *or* 43 *or* 1077.

To move on behalf of [*or*, on the part of] the plaintiff, that the defendant may be arrested and imprisoned for six months from the date of his arrest, including the day of such date, unless and until he shall sooner deposit in Court the sum of £—— (*m*), by way of security, or shall give to the plaintiff a bond executed by him and two (*n*) sufficient

(*l*) The application is *ex parte:* R. S. C. Ord. LXIX. 1; and note (*k*), *supra*. For form of order, see R. S. C. App. K., No. 31.

(*m*) The amount of the security must not exceed the amount claimed in the action: Debtors Act, 1869 (32 & 33 Vict. c. 62), s. 6; but in an action for a penalty, or sum in the nature of a penalty, other than a penalty in respect of any contract, the amount must be sufficient to include the probable costs of the action.

(*n*) See R. S. C. Ord. LXIX. 3; and note (*k*), *supra*.

sureties in the penalty of £—— (*o*), or some other security satisfactory to the plaintiff, that the said defendant will not go out of England without the leave of this honourable Court.

Where the action is for a penalty, or for a sum in the nature of a penalty, other than a penalty in respect of any contract, instead of the above, say: that any sum recovered against the defendant in this action shall be paid, or that the said defendant shall be rendered to prison.

And that the Sheriff of —— may be ordered to take the said defendant, within one calendar month from the date of the order, including the day of such date for the purpose aforesaid, if he shall be found in the said Sheriff's bailiwick; and that the costs of this application may be costs in the action (*p*).

1666.

Affidavit in support (*q*). [Dan. Pr. 1661.]

Formal parts: see Form 6.

1. *Here prove a good cause of action to the amount of £50, or upwards (r); as thus:* The above named defendant C. D., is justly and truly indebted to me in the sum of £——, for goods sold and delivered by me to the said C. D. [*or as may be*].

2. *Prove facts causing a probable belief that the defendant is about to quit England.*

3. *Show how the absence of the defendant will prejudice the plaintiff in the prosecution of his action (s).*

4. *Show means of knowledge.*

1667.

Indorsement on order delivered to the sheriff (*t*). [Dan. Pr. 1661.]

(*Same as* Form 3 *or* 4.)

1668.

Bond given by the defendant under the order (*u*). [Dan. Pr. 1661.]

(*Same as* Form 1663, *except that the plaintiff, and not the sheriff, will be the obligee; the condition in the defeasance of the bond will be:* "if the above bounden C. D. shall not go out of England without the leave

(*o*) See note (*m*), *supra*.

(*p*) See R. S. C. Ord. LXIX. 5; and note (*k*), *supra*.

(*q*) As to the contents of this affidavit, see the Debtors Act, 1869 (32 & 33 Vict. c. 62), s. 6.

(*r*) The existence of a good cause of action to the extent of 50*l*. must be positively and explicitly averred; the language of the affidavit being construed with some strictness.

(*s*) This paragraph is not necessary where the action is for a penalty, or sum in the nature of a penalty, other than a penalty in respect of any contract; Debtors Act, 1869 (32 & 33 Vict. c. 62), s. 6.

(*t*) See R. S. C. Ord. LXIX. 2; and note (*k*), *supra*.

(*u*) As to form of security, see R. S. C. Ord. LXIX. 3; and note (*k*), *supra*.

of Her Majesty's High Court of Justice;" *or, if the action is for a penalty, or sum in the nature of a penalty (other than a penalty in respect of any contract), then:* "if any sum recovered in the said action against the above bounden C. D. shall be paid, or the person of the said C. D. shall be rendered to prison.")

1669.

Notice of names of sureties and of form of bond (*v*). [Dan. Pr. 1662.]

Formal parts: see Form 37.

Take notice that the defendant proposes E. F. of (*address and description*), and G. H. of (*address and description*), as two sufficient sureties to enter into a bond pursuant to the order dated —— day of ——, 188—, and that the defendant proposes, pursuant to the said order, to execute a bond, with the said E. F. and G. H. as his sureties, in the form hereunto annexed and marked A.

1670.

Notice of objection to sureties or bond (*w*). [Dan. Pr. 1662.]

Formal parts: see Form 37.

Take notice that the plaintiff objects to E. F. in your notice, dated the —— day of ——, 188—, named, as a surety to enter into the bond therein mentioned [*or*, objects to the form of bond referred to in your notice, dated the —— day of ——, 188—], and that the following are the particulars of such objection: (*Here specify the objections*).

1671.

Summons to determine sufficiency of security (*w*). [Dan. Pr. 1662.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff, to determine the sufficiency of the security proposed to be given under the order dated the —— day of ——, 188—; and that the defendant may be ordered to pay the costs of this application.

1672.

Certificate that security has been given (*x*). [Dan. Pr. 1662.]

(*Title and reference to the record.*)

I certify that C. D. now in the gaol of ——, upon an order of the High Court of Justice, dated the —— day of ——, 188—, made in the above action, until he should give security that he would not go out of England without the leave of the Court [*or*, that any sum recovered against him in this action should be paid, or that he should be rendered to prison], has given such security.

Dated —— day of ——, 188—.

X. Y., Solicitor for the said A. B.

[*Or*, A. B.

Signed by the said A. B. in the presence of

X. Y., plaintiff's solicitor.]

(*v*) See R. S. C. Ord. LXIX. 3; and note (*k*), *supra*.

(*w*) *Ibid.*

(*x*) *Ibid.*, 6; and note (*k*), *supra*.

1673.

Notice of motion or summons for liberty to put bond in suit (*y*). [Dan. Pr. 1662.]

Formal parts: see Form 38, *or* 43, *or* 1077.

on the part of the plaintiff, that he may be at liberty to put in suit the bond dated the —— day of ——, 188—, entered into by the defendant C. D., together with E. F. and G. H., as his sureties, pursuant to the order dated the —— day of ——, 188—.

1674.

Notice of motion to discharge order (*z*). [Dan. Pr. 1663.]

Formal parts: see Form 38.

on the part of the defendant C. D., that the order made in this action, dated the —— day of ——, 188—, whereby it was ordered that (*Recite the order*), may be discharged. [*If the ground of the application is irregularity, the objections intended to be insisted upon must be stated* (*a*).]

If the defendant is still in custody, add: and that the defendant may be discharged out of the custody of the Sheriff of ——, under the said order;

If the defendant has given a bond, add: and that the bond given by the said defendant to the said plaintiff, pursuant to the said order, may be delivered up to be cancelled;

If the defendant has paid money into Court, add: and that the sum of £——, cash in Court, on the credit of this action may be ordered to be paid out to the defendant C. D.;

and that the plaintiff may be ordered to pay to the defendant his costs of and occasioned by this application.

(*y*) See R. S. C. Ord. LXIX. 4; and note (*k*), *supra*. The application should be supported by an affidavit showing that the bond is forfeited.

(*z*) See R. S. C. Ord. LXIX. 4; and note (*k*), *supra*.

(*a*) See R. S. C. Ord. LXX. 3.

CHAPTER XXVIII.

RECEIVERS (*a*).

(*Dan. Pr.*, 1664—1720, ccccxiii.—ccccxiv.)

(*a*) *Receivers.—Summary of Material Provisions of R. S. C.* 1883.

ORDER.

Interlocutory application.—An application under Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 25, sub-s. 8, may be made by any party; if by the plaintiff, it may be made either *ex parte*, or with notice; if by any other party, then on notice to the plaintiff, and at any time after appearance by the party applying . . . . . L. 6.

Equitable execution.—In case of an application for the appointment of a receiver by way of equitable execution, the Court or a Judge is to have regard to the amount of the debt claimed by the applicant, the probable amount to be obtained by the receiver, and the probable costs of his appointment. (See R. S. C. Oct. 1884, 12) . . . . . ,, 15*a*.

Security by receivers.—A person who is to be appointed receiver must first give security, to be allowed by the Court or a Judge, and taken before a person authorised to administer oaths, duly to account for what he shall receive as such receiver. The security must, unless otherwise ordered, be by recognizance in the prescribed form. (App. L. No. 21) . . . ,, 16.

Where an order is made in Court appointing a person therein named receiver, the Court or Judge may adjourn to Chambers the cause or matter, in order that such person may give security, and may thereupon direct the order to be drawn up . . . ,, 17.

Allowance to receivers.—A person appointed receiver will, unless otherwise ordered, be allowed a proper salary or allowance. In case of neglect by a receiver to leave and pass his accounts and pay the balances thereof at the times fixed, his salary may be disallowed, and he may be charged with interest at 5*l.* per cent. per annum on his balances . . . . ,, 16, 18.

Times for leaving and passing accounts.—The Court or a Judge will fix the days for the receiver to leave and pass his accounts, and to pay the balances appearing due thereon . . . . ,, 18.

Receivers' accounts, &c.—Receivers' accounts must be in the prescribed form (App. L. No. 14). The account, together with an affidavit verifying the same in the prescribed form (App. L. No. 22, as amended by R. S. C. Oct. 1884, 13; App. No. 3), must be left in Chambers; and an appointment obtained by the plaintiff or person having conduct of the cause to pass same . ,, 19, 20.

Consequences of default by receiver.—In case any receiver fails to leave any account or affidavit, or to pass such account, or to make any payment, or otherwise, the receiver or the parties, or any of them, may be required to attend at Chambers to explain such default, and all proper directions may be thereupon given, including the discharge of the receiver, the appointment of another, and payment of costs . . . . . ,, 21.

Certificate on receiver's account.—A certificate of the Chief Clerk of the result of a receiver's account must from time to time be taken. (See R. S. C. Oct. 1884, 13, substituting this rule for R. S. C. 1883, Ord. L. 22) . . . . . ,, 22.

As to receivers in general, see Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 25, sub-s. 8; 1 Seton, 410—454; Kerr on Receivers; Wilson, 33, 34; Ann. Pr. 472—474, 476—478. As to the cases in which, and over what property, a receiver may be appointed, see Dan. Pr. 1664—1681; 1 Seton, 429—436. As to appointment of receiver of real and personal assets, see 1 Seton, 430, 431;—at instance of mortgagees, *Ibid.* 431, 414, No. 11; *Tillett* v. *Nixon*, 25 Ch. D. 238: 32 W. R. 226;—at instance of judgment creditor, 1 Seton, 432: 2 Seton, 1139, No. 4;—of trust estate, *Ibid.* 432, 433, 421, No. 28; Kerr on Receivers, 12—20; Lewin, 825;—of estate of an infant, 1 Seton, 433; Simpson on Infants, 404;—of partnership property, 1 Seton, 433, 434, 414—419, Nos. 13—20; 2 Lindley on Partnership, 1005—1014; Kerr on Receivers, 59—72;—of the property of companies or corporations, 1 Seton, 434, 435, 421—423, Nos. 29—32;—of rates, 1 Seton, 435, 436;—of a benefice or office, *Ibid.*, 436;—of a newspaper, *Ibid.*, 436;—of a pension, *Ibid.*, 436;—in actions for specific performance, Dan. Pr. 1677; 2 Dart V. & P. 1092; Kerr on Receivers, 55—57; Fry on Specific Performance, 563, 567, 611, 612;—of property abroad, and as to managers and consignees thereof, see Dan. Pr. 1719, 1720; 1 Seton, 450—452, 447—450, Nos. 1—5. As to who may be appointed, see Dan. Pr. 1681—1683; 1 Seton, 424; as to the effect of the appointment, see Dan. Pr. 1691—1696; 1 Seton, 427—429; as to costs of receivers, see Morgan & Wurtzburg, 382—384.

Section I.—Mode and Effect of Appointment (*b*).

(*Dan. Pr.*, pp. 1684—1698, ccccxiv.)

1675.

Indorsement on writ of summons of claim for appointment of a receiver (*c*). [Dan. Pr. 1684.]

The plaintiff's claim is for a receiver of (*State what: see* Forms 1676, 1677).

1676.

Motion paper for interim receiver (*d*). [Dan. Pr. 1685.]

Formal parts: see Form 36.

To move on behalf of the plaintiff, that L. M., of (*residence and addition*), or some other proper person, may be appointed, over the first motion day of next sittings [*or as may be*], to receive (*State what; as thus:* the chattels in the indorsement of claim on the writ of summons [*or*, in the affidavit of J. S., filed the —— day of ——, 188—] mentioned).

(*b*) See 1 Seton, 410—436; Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 25, sub-s. 8.

(*c*) See *Colebourne* v. *Colebourne*, 1 Ch. D. 690; R. S. C. Ord. II. 1; *Ibid.*, III. 1, 2, 3; Wilson, 174; Ann. Pr. 110.

(*d*) See 36 & 37 Vict. c. 66, s. 25, sub-s. 8; R. S. C. Ord. L. 6; and note (*a*), *supra*. The application may be made by summons at Chambers: *Re Parker*, *Cash* v. *Parker*, 12 Ch. D. 293. But as a rule no such order will be made at Chambers, except in cases where a consent is given: see 1 Seton, 425. The practice at Chambers is not uniform in this respect, but it is submitted that, except by consent, an order to appoint a receiver should only be made in Court. For form of order on *ex parte* application, see 1 Seton, 410, No. 3. For form of order on summons at Chambers, *Ibid.*, 413, No. 9. For various forms of orders in other cases, *Ibid.*, 410—423.

1677.
Notice of motion or summons for a receiver (*e*). [Dan. Pr. 1685.]

Formal parts : see Form 38 *or* 43.

on the part of the plaintiff [*or as may be*], that L. M., of (*residence and addition*), or some other proper person, on giving security (*f*), may be appointed, until the hearing of this action, or until further order (*State for what purpose ; as thus :*

to receive the rents and profits of the real and leasehold estates, and to collect and get in the outstanding personal estate, of the above-named testator ; and that for that purpose all proper directions may be given) (*g*).

1678.
Motion paper by judgment creditor for appointment of a receiver by way of equitable execution (*h*). [Dan. Pr. 1665.]

Formal parts : see Form 36.

To move on behalf of the plaintiff, that the plaintiff (*i*) [*or*, L. M., of, *&c.*], or some other proper person, may be appointed receiver, by way of equitable execution, of the rents and profits of the properties of the defendant C. D. in the indorsement on the writ of summons [*or*, in

(*e*) See note (*d*), *supra*.

(*f*) A receiver appointed by name, on his giving security, is not receiver until security is given : *Edwards* v. *Edwards*, 2 Ch. D. 291 ; reversing S. C. 1 Ch. D. 454 ; but upon his giving security his appointment relates back : *Ex parte Evans*, 11 Ch. D. 691 : 13 Ch. D. 252.

(*g*) *Form of order.*—As to directing tenants to attorn, see Dan. Pr. 1692 ; 1 Seton, 410, No. 1. As to the form, where any of the parties to the record are in possession, see Dan. Pr. 1693 ; 1 Seton, 418, No. 20 ; *Ibid.*, 420, No. 23. As to the mode of enforcing an order for the delivery of the possession of land, see R. S. C. Ord. XLII. 5, 7 ; *Ibid.*, XLVII. ; notes (*a*) and (*b*), at p. 359 ; and note (*a*), at p. 423. As to directing legal personal representatives to deliver over securities, &c., see Dan. Pr. 1701 ; 1 Seton, 410, No. 1. As to the mode of enforcing an order for the delivery of property (other than land), see R. S. C. Ord. XLII. 6, 7 ; *Ibid.*, XLVII. ; notes (*a*) and (*b*), at p. 359 ; and note (*a*), at p. 426.

Accounts.—As to passing accounts and payment of balances thereon, see Dan. Pr. 1688 *et seq.* ; 1 Seton, 410, No. 1. The directions for the receiver to pay his balances into Court will be contained in a lodgment schedule to the order. If the order directing the appointment of a receiver of personal estate, and of rents and profits of real estate, directs also that separate accounts thereof be raised, there will be two lodgment schedules, one providing for the payment into Court and investment of the balances on the accounts of personal estate, the other containing similar directions as to the balances on the accounts of rents and profits.

(*h*) *Equitable execution.*—As to equitable execution, see Dan. Pr. 932, 933 ; 1 Seton, 432 ; Wilson, 33, 34, 401 ; Chitty's Forms, 449—459 ; Ann. Pr. (1884—5), 497, 498. See also *Anglo-Italian Bank* v. *Davies*, 9 Ch. D. 275 ; *Ex parte Evans*, 11 Ch. D. 691 : 13 Ch. D. 252 ; *Salt* v. *Cooper*, 16 Ch. D. 544 ; *Smith* v. *Cowell*, 6 Q. B. D. 75 ; *Bryant* v. *Bull*, 10 Ch. D. 153 ; *Westhead* v. *Riley*, 25 Ch. D. 413 ; *Stanger Leathes* v. *Stanger Leathes*, W. N. (1882), 71. In the Chancery Division the application is made by *ex parte* motion. It may be made in the action in which judgment has been obtained : *Salt* v. *Cooper*, 16 Ch. D. 544 ; or in a fresh action to enforce the charge, and realize it by sale or foreclosure.

(*i*) The plaintiff is not infrequently appointed, without security and without salary (*Taylor* v. *Eckersley*, 2 Ch. D. 302) ; particularly if he proves that he is a person of substance, and undertakes not to deal with the property without the leave of the Court ; and often until the trial or further order, and not merely over the next motion day, leaving the judgment debtor or any person prejudicially affected by the appointment (cf. *Searle* v. *Choat*, 25 Ch. D. 723 : 32 W. R. 397), to apply to discharge or vary the order.

the affidavit of J. S., filed the —— day of ——, 188—, *or as may be*] mentioned, with all usual directions (*j*).

An affidavit in support accompanies.

1679.

Summons to proceed on order directing a receiver to be appointed (*k*).

[Dan. Pr. 1689.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], to proceed on the judgment [*or*, order] dated ——, 188—; and that L. M., of (*residence and addition*), or some other proper person, may be appointed receiver pursuant thereto.

1680.

Summons for leave for a party to the action to propose himself as receiver (*l*).

[Dan. Pr. 1682.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or*, defendant A. B.], that he may be at liberty to propose himself as the person to be appointed receiver under the judgment [*or*, order] dated the ——, 188—; but without giving security: he undertaking to act without salary [*or as may be*].

1681.

Affidavit of the nature and value of the property over which the receivership is to extend.

[Dan. Pr. 1685.]

Formal parts: see Form 6.

1. *Describe the property, succinctly, as thus:* The real and leasehold estates of the testator A. B., in the judgment [*or*, order] in this action dated the ——, 188—, mentioned, consist of the short particulars set forth in the first column of the first part of the schedule hereto. The said estates are in the occupation of the several persons, and at the annual rents, specified in the second and third columns of the said first part. The arrears of rent specified in the fourth column of the said first part are also now due.

2. The outstanding personal estate of the said testator consists of the particulars set forth in the first column of the second part of the said schedule; and the values thereof are set forth in the second column of the said second part.

3. (*Show means of knowledge.*)

(*j*) The order will be expressed to be made without prejudice to the rights of prior incumbrancers, and liberty may be given to the receiver, if he shall think proper, but not otherwise, to keep down the interest on prior incumbrances; he will be directed to apply the balances on his accounts in or towards payment of the judgment debt; and a provision is frequently added that the costs of the order and of the receivership are to be paid only out of the sums received, but not to be added to the judgment debt as against the debtor.

(*k*) For form of proposal for a receiver, see Dan. Forms, 3rd ed., No. 1662; and see Dan. Pr. 1689. It is believed that a proposal is not now required in any of the Chambers.

(*l*) Where it is desired that the parties should have leave to propose themselves, such leave is generally given by the judgment or order directing the appointment. For forms of order, see 1 Seton, 411, No. 6: 412, No. 7; and see *Ibid.*, 424. For the principles on which the Court acts in appointing a party receiver, see *Cookes* v. *Cookes*, 2 De G. J. & S. 526; and see *Sargant* v. *Read*, 1 Ch. D. 600; *Hyde* v. *Warden*, 1 Ex. D. 309.

The Schedule above referred to.

First Part.

Particulars of estate.	Tenant's name.	Annual rent.	Arrears due.
		£ s. d.	£ s. d.
The Home Farm, at Uxbridge, Middlesex.	John Jones.	300 0 0	75 0 0
&c.	*&c.*	*&c.*	*&c.*

Second Part.

Particulars of outstanding estate.	Value.
	£ s. d.
Book Debts.	350 0 0
&c.	*&c.*

1682.

Affidavit of fitness of proposed receiver. [Dan. Pr. 1689.]

Formal parts: see Form 6.

1. I have for —— years last past known and been well acquainted with L. M., of (*residence and addition*), the person proposed to be appointed, in this action, the receiver of the rents and profits of the real estate, and to get in the outstanding personal estate, of the testator A. B. [*or as may be*].

2. The said L. M. is (*State the trade, business, or profession, if any, of the proposed receiver; and where carried on, and for how long, to the deponent's knowledge*).

3. The said L. M. is a person of respectability and integrity, and of good credit; and in my judgment he is a fit and proper person to be appointed receiver of the said rents and profits, and outstanding estate [*or as may be*].

1683.

Recognizance of a receiver and his sureties, pursuant to a judgment or order (*m*). [Dan. Pr. 1689.]

Mr. Justice ——, the Judge to whose Court this cause is attached (*o*), has approved of and allowed this recognizance.
R. M., *Chief Clerk.*

v.

L. M. (*the receiver*), of (*residence and addition*), C. D., of, *&c.*, and E. F. of, *&c.* (*the sureties*), before our Sovereign Lady the Queen in her High Court of Justice personally appearing, do acknowledge themselves, and each of them doth acknowledge himself, to owe to J. W. H. and R. M., two of the Chief Clerks of the Chancery Division (*n*), the sum of £——, to be paid to the said J. W. H. and R. M., or one of them, or the executors or administrators of them, or one of them, and unless they do pay the same, they, the said L. M., C. D., and E. F., do grant, and each of them doth grant for himself, his heirs, executors, and administrators, that the said sum of £—— shall be levied, recovered, and received, of and from them and each of them, and of and from all and singular the manors, messuages, lands, tenements, and hereditaments, goods and chattels, of them and each of them wheresoever the same shall or may be found. Witness our said Sovereign Lady Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth, at the Royal Courts of Justice, the —— day of ——, 188—.

Whereas, by an order of the High Court of Justice, made in a cause wherein A. B. and others are plaintiffs, and C. D. and others defendants, and dated the —— day of ——, 188—, it was ordered that a proper person should be appointed to receive [*or*, that upon the above-bounden L. M. first giving security he should be appointed receiver of] the rents and profits of the real estate, and to collect and get in the outstanding personal estate of G. H., in the said order named. And whereas the Judge to whom this cause is assigned hath

If the receiver has not been approved by the judgment or order, add:
approved of the said L. M. as a proper person to be such receiver, and hath

approved of the above-bounden C. D. and E. F. as sureties for the said L. M.; and hath also approved of the above-written recognizance, with the under-written condition, as a proper security to be entered into by the said L. M., C. D., and E. F., pursuant to the said order, and the general orders of the said Court (*p*) in that behalf; and in testimony of

(*m*) See R. S. C. Ord. L. 16; App. L., No. 21; and note (*a*), *supra*. As to the security to be given by a receiver, see 1 Seton, 426, 427. The recognizance must be engrossed on parchment. A recognizance must be enrolled within *six months*, otherwise an order is necessary: Dan. Pr. 1690; R. S. C. Ord. LXI. 14.

(*n*) *Sic* in the Official Form. The recognizance must be given to the two senior Chief Clerks for the time being of the Judge to whom the cause or matter is assigned: R. S. C. Ord. LX. 4; and see Form 1302.

(*o*) *Sic* in the Official Form; but throughout the Rules the expression used is "assigned:" see R. S. C. Ord. V. 9; see also the body of the present form.

(*p*) This should be "the Rules of the Supreme Court."

such approbation the Chief Clerk of the said Judge hath signed an allowance in the margin hereof.

Now the condition of the above-written recognizance is such, that if the said L. M. do and shall duly account for all and every the sum and sums of money which he shall so receive on account of the rents and profits of the real estate, and in respect of the personal estate of the said G. H. (*q*), at such periods as the said Judge shall appoint, and do and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court or Judge hath directed or shall hereafter direct, then the above recognizance shall be void and of none effect, otherwise the same is to be and remain in full force and virtue.

L. M.
C. D. } Taken and acknowledged by the above-named (*&c.: see* Form 1302).
E. F.

1684.

Bond by a receiver, and a society or company as his sureties (*r*). [Dan. Pr. 1689, note (*c*).]

In the High Court of Justice,
Chancery Division.
The —— Society [*or*, Company, Limited].
Bond No. —.

Know all men by these presents, that I, L. M., of (*address and description*), and We, The —— Society [*or*, Company, Limited], are jointly and severally bound unto J. W. H. and R. M., two of the Chief Clerks of the Chancery Division (*s*), in the sum of £——, to be paid to the said J. W. H. and R. M., or one of them, or the executors or administrators of them, or one of them: For which payment, well and truly to be made, I, the said L. M., for myself, my heirs, executors, and administrators, and every of them, and we, The —— Society [*or*, Company, Limited], for ourselves and our successors, do bind and oblige ourselves for the whole firmly by these presents.

Sealed with the seal of the said L. M., and also with the seals of ——.

Dated the —— day of ——, 188—.

Whereas by a judgment [*or*, an order] of the High Court of Justice made in an action wherein A. B. and E. F. are plaintiffs and C. D. and G. H. are defendants, and bearing date the —— day of ——, 188—, it was ordered that (*Recite so much of the judgment or order as directs a proper person to be appointed, or as directs that the person therein named be appointed on giving security*).

(*q*) This must accord with the judgment or order by which the receiver is directed to be appointed.

(*r*) See 1 Seton, 426; and for form of order where a receiver has given security by bond with a guarantee society as his sureties, *Ibid.*, 444, No. 5. The form in the text was settled by one of the conveyancing counsel of the Court.

(*s*) See note (*u*), *supra*.

And whereas his lordship Mr. Justice ——, the Judge to whom the said action is assigned, hath approved of the said L. M. as a proper person to be the receiver in the said action, and hath approved of the —— Society [*or*, Company, Limited], of (*address of chief office*), as sureties for the said L. M. in the sum of £——.

If two guarantee societies are sureties, add: And whereas the said Judge has also approved of the —— Society [*or*, Company, Limited] as sureties for the said L. M. in a like sum of £——.

And whereas the said Judge hath also approved of the above bond with the under-written condition, together with

If two guarantee societies are sureties, add: a bond of the said —— Society [*or*, Company, Limited], dated the —— day of ——, 188—, and numbered ——, for the sum of £—— duly executed under the hand and seal of the said L. M., and the hands of two of the directors of the said —— Society [*or*, and the seal of the said —— Company, Limited], and

a recognizance entered into by the said L. M., bearing date the —— day of ——, 188—, as a proper security to be entered into by the said L. M. and the said Society [*or*, Company, Limited—*or as may be*], pursuant to the said judgment [*or*, order] and the Rules of the Supreme Court in that behalf; and in testimony of such approval the chief clerk of the said Judge hath signed an allowance in the margin hereof, and of the said recognizance respectively (*t*).

Now the condition of the above-written bond or obligation is such, that if the above-bounden L. M., his executors or administrators, or some or one of them, do and shall duly account for what he the said L. M. shall receive or shall become liable to pay as such receiver as aforesaid, at such period and in such manner as the High Court of Justice, or the Judge thereof to whom the said action shall for the time being be assigned, shall appoint, and do and shall pay the same as such Court or Judge hath directed, or shall hereafter direct, then the above-written bond or obligation shall be void, or else shall, subject to the provisions hereinafter contained, be and remain in full force and virtue: Provided always, that if the said L. M. shall not, for every successive term of twelve calendar months to be computed from the —— day of ——, 188—, or within fifteen days after the —— day of —— in each and every year, pay or cause to be paid at the office of the said Society [*or*, Company], the annual sum or premium of £——, then the said Society [*or*, Company] shall, at any time after such default in payment, be at liberty to apply by summons to the Judge at Chambers to whom the said action shall for the time being be assigned, to be relieved from all further liability as such sureties as aforesaid from the final hearing of such summons; and such summons having been served upon such persons as the Judge shall direct, and being finally heard, all further liability of the said Society [*or*, Company], as such sureties as aforesaid, shall, from and after such final hearing of such summons, or from and after such other time as the Judge shall direct, cease, and determine,

(*t*) For form of memorandum of allowance of the bond, see Form 1683, margin.

save and except in respect of any loss or damage occasioned by any act or default of the said L. M.. in relation to his duties as such receiver as aforesaid, previously to such cesser and determination of liability : Provided always, and it is hereby agreed and declared, that this bond is entered into by the said Society [*or*, Company] on the condition that the capital stock and funds, according to the deed of settlement of the said Society [*or*, articles of association of the said Company], shall alone be liable to answer and make good all claims in respect of this bond ; and that no director or proprietor of the said Society [*or*, Company] shall in any manner be personally liable, or subject to any claims or demands by reason of such bond, beyond the amount unpaid of his or her share or shares of such capital stock or funds : Provided always, that a certificate or certificates under the hand of the chief clerk for the time being of the Judge to whom the said action shall for the time being be assigned, of the amount which the said L. M., as such receiver as aforesaid, is liable to pay, and has not paid, shall be sufficient and conclusive evidence against the said L. M., his heirs, executors, and administrators, and against the said Society [*or*, Company], and also as between the said Society [*or*, Company], and the said J. W. H. and R. M., of the truth of the contents of the said certificate or certificates, and that this bond has become forfeited thereby, to the amount of the sum stated in such certificate or certificates ; and shall form a valid and binding charge and claim, not only against the said L. M., his heirs, executors, and administrators, but also against the said Society [*or*, Company], and the funds and property thereof, without its being necessary for the said J. W. H. and R. M., or either of them, their, or either of their, executors or administrators, first to take legal or other proceedings against the said L. M., his heirs, executors, or administrators, for the recovery thereof, and without any further or other proof being given either by or on the part of the said J. W. H. and R. M., or either of them, their, or either of their executors or administrators, in any action, suit, or proceeding, to enforce this bond against the said Society [*or*, Company], or against the said L. M., his heirs, executors, or administrators, or by or on the part of the said Society [*or*, Company] in any action or proceeding against the said L. M., his heirs, executors, or administrators, of the amount of such damage or loss, or that the same has been sustained, incurred, or occasioned, by and through the act or default of the said L. M. while in office : Provided always, and it is further agreed between the said L. M. and the said Society [*or*, Company], that the said L. M. shall and will, on being discharged from his office of, or ceasing to act as, such receiver as aforesaid, forthwith give notice thereof in writing, and also furnish to the said Society [*or*, Company] free of charge, an office copy of the order of the Court or Judge, discharging him from his office as such receiver as aforesaid : And further that he the said L. M., his heirs, executors, and administrators, shall and will from time to time, and at all times, save, defend, and keep harmless the said Society [*or*, Company], and their successors, and the property and funds of the said Society [*or*, Company], from and against all loss and damage, costs and expenses which the said Society [*or*, Company], or the funds or property thereof,

shall or may, or otherwise might, at any time sustain or be put unto, or for or by reason or in consequence of the said Society [*or*, Company] having entered into the above-written bond for and at the request of the said L. M.

In witness whereof the said L. M. hath hereunto set his hand and seal, and S. T. and X. Y., being two directors of the said Society, have hereunto set their hands [*or*, and the seal of the said —— Company, Limited, hath been hereunto affixed] the day and year first above-written.

1685.

Affidavit of sureties as to their solvency. [Dan. Pr. 1690.]

(*Title and reference to the record.*)

We, C. D., of (*residence and addition, as in recognizance*), and E. F., of, *&c.*, the proposed sureties for L. M., of (*residence and addition*), the person proposed to be appointed receiver in this action, severally make oath and say, as follows:

1. First, I the said C. D., for myself say, that I am well and truly worth the sum of £—— (*Insert the amount for which he is to be bound*), after payment of all my just debts and liabilities.

2. And I the said E. F., for myself say, that I am (*&c.: as above, to* liabilities).

Sworn (*&c.: see* Form 10).

1686.

Summons to appoint receiver, after security given (*u*). [Dan. Pr. 1690.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that L. M., of (*residence and addition*): having been approved as a proper person to be appointed to receive the (*Follow the words of the judgment or order directing the appointment of a receiver*), pursuant to the judgment [*or*, order] dated the —— day of ——, 188—, and having given security, pursuant to the Rules of the Supreme Court, by entering into a recognizance, together with C. D. and E. F. as his sureties, dated the ——, 188—, which has been approved by the Judge, and duly enrolled: may be appointed to receive the (*Follow the words of the judgment or order, as above*): And that the said L. M. may on the ——, 188—, and on the same day in every succeeding year [*or other period fixed*], leave at the Chambers of the Judge his annual [*or as may be*] account as such receiver; And that the said L. M. may, within fourteen days after the date of the Chief Clerk's certificate of the allowance of such account,

Or, on the —— next, and the same day in every succeeding year, pay the balance that shall be thereby certified to be due from him on such account, or such part thereof as shall be certified to be proper to be so paid: as directed by the said judgment [*or*, order] of the ——, 188—.

(*u*) For form of order, see 1 Seton, 412, No. 8. In practice this summons is usually dispensed with, as the order to appoint the receiver is in general made upon the summons (see Form 1679) to proceed upon the order directing the appointment: the receiver's security being read on such order.

1687.
Summons to settle security to be given by a receiver pursuant to an order (*v*). [Dan. Pr. 1691.]

Formal parts: see Form 43 *or* 1077.
on the part of the plaintiff [*or as may be*], to proceed under the judgment [*or*, order] dated the —— day of ——, 188—; and to settle the security to be given by L. M. as receiver, pursuant thereto.

1688.
Certificate of the security having been given (*w*). [Dan. Pr. 1691.]

(*Title and reference to the record.*)

In pursuance of the directions given to me by Mr. Justice ——, I hereby certify that, in pursuance of the judgment [*or*, order] in this action, dated the —— day of ——, 188—, L. M., of (*residence and addition*), the person who, upon first giving security, is by the said judgment [*or*, order] appointed receiver of the rents and profits of the real estates, and to collect and get in the outstanding personal estate of A. B., in the said judgment [*or*, order] named [*or as may be*]: has given security pursuant to the Rules of the Supreme Court; and has entered into a recognizance, together with C. D. and E. F., as his sureties, dated the —— day of ——, 188—, which has been approved of by the said Judge; in testimony whereof I have signed an allowance in the margin thereof; and such recognizance has been duly enrolled:

And I also certify, that the said Judge has appointed the —— day of ——, next, and the same day in each succeeding year [*or as may be*], to be the day on which the said L. M. is annually [*or as may be*] to cause his account to be delivered into the Chambers of the said Judge. And fourteen days after the date of the Chief Clerk's certificate allowing each account is appointed as the time during which the said L. M. is to pay the balances appearing due on the accounts so to be delivered in, or such part thereof as shall be certified to be proper to be paid: as directed by the said judgment [*or*, order] of the —— day of ——, 188—.

Dated (*&c.: see* Form 1410).

1689.
Note to be sent to the Chief Clerk where the Receiver is approved in Court, but the order is suspended till he has given security (*x*). [Dan. Pr. 1691, ccccxiv.]

(*Short title and reference to the record.*)

Adjourned to Chambers pursuant to Order L. r. 17, to settle the security to be given by L. M., the receiver appointed, subject to his giving security, to receive the rents and profits of the real estate, and to collect and get in the outstanding personal estate of the testator [*or as may be*].

(*r*) For the forms applicable to this case, see Nos. 1681, 1683, 1684, 1685, 1688.

(*w*) As to the cases in which this certificate may be dispensed with, see Dan. Pr. 1691. It will be required only in cases where the receiver is appointed by the order subject to his giving security, and there has been no adjournment to Chambers to complete the security under the provisions of R. S. C. Ord. L. 17.

(*x*) See R. S. C. Ord. L. r. 17; and note (*a*), *supra*. For the forms applicable to this case, see Nos. 1681, 1685, 1690, 1691, 1692.

The order will be completed on the Chief Clerk's note of security having been given, and of the times fixed to bring in his accounts.

G. L., Registrar.

1690.

Recognizance by a receiver and his sureties, in like case (*y*). [Dan. Pr. 1691.]

Proceed as in Form 1683, *to the first* whereas, *and continue thus:*

Whereas his lordship Mr. Justice ——, on an application lately made to him in Court [*or*, Chambers] in an action assigned to him, and now pending in the High Court of Justice, wherein G. H. is plaintiff and I. K. is defendant,

Or, wherein G. H., and another [*or*, others] are plaintiffs, and I. K. and another [*or*, others] are defendants,

hath approved of the above bounden L. M., subject to his giving security, as a proper person to be appointed to receive (*State what: as thus:* the rents and profits of the real estate, and to collect and get in the outstanding personal estate of A. B., the testator in the writ of summons in this action named); and hath also approved of the above bounden C. D. and E. F. as sureties for the said L. M.; and of the above written recognizance, with the underwritten condition, as a proper security to be entered into by the said L. M., C. D. and E. F., pursuant to the Rules of the Supreme Court in that behalf; and in testimony (*Continue as in* Form 1683 *to the end*).

1691.

Chief Clerk's note of the security having been given (*z*).

(*Short title and reference to the record*).

L. M., of (*address and description*), the person appointed, subject to his giving security, to receive [*State what: see* Form 1688], has given security pursuant to the Rules of the Supreme Court, and has entered (*Continue as in* Form 1688 *down to* enrolled).

The Judge has appointed (*Continue as in* Form 1688 *to the end*).

1692.

Minute of order appointing receiver, after security given, where appointed in Chambers subject to security, but order not drawn up (*a*). [Dan. Pr. 1691.]

Formal parts, and note of the evidence.

L. M., of (*residence and addition*), having been approved by the Judge as a proper person to be appointed to receive (*State what: see* Form 1677); and having given security pursuant to the Rules of the Supreme Court by entering into a recognizance, together with C. D. and E. F. as his sureties, dated the ——, 188—, which has been approved by the Judge, and duly enrolled: the Judge appoints the said L. M. receiver of the (*State what: see* Form 1677; *and*

If of real or leasehold estate, add direction to attorn (*aa*);

If of outstanding personal estate, add direction as to securities, &c. (*aa*).

(*y*) See R. S. C. Ord. L. 17; and Form 1689.

(*z*) See note (*x*) to Form 1689.

(*a*) See R. S. C. Ord. L. 17. For form of order, see 1 Seton, 413, No. 9.

(*aa*) See 1 Seton, 410, No. 1.

And orders that the said L. M. do on the ——, 188—, and the same day in every (*Continue as in* Form 1686 *to* so paid ; *and conclude thus :*) into Court to the credit of this action [*or as may be*] ; and that such balances be laid out in consolidated £3 per cent. annuities, and accumulated [*or as may be*].

1693.

Notice to tenant to attorn to receiver (*b*). [Dan. Pr. 1693.]

(*Title and reference to the record.*)

I, L. M., of (*residence and addition*), the receiver appointed in this action of the rents and profits of the real estate of A. B., the testator in the writ of summons in this action named [*or as may be*], hereby give you notice and require you to attorn and become tenant to me for (*Describe the property ; as thus :* the messuage or tenement, garden and outbuildings, with the appurtenances, situate at A., in the county of B., now occupied by you), and for such other part or parts of the said real estate as is or are in your occupation ; and to pay to me your rent in arrear, and growing rent, for the said premises. Dated this —— day of ——, 188—.

L. M.

To W. P., of (*residence and addition*).

1694.

Attornment thereon. [Dan. Pr. 1693.]

(*Title and reference to the record.*)

I, W. P., of (*residence and addition*), attorn and become tenant to L. M., the receiver appointed in this action, for (*Describe the property : see* Form 1693), as the same are now in my occupation : to hold the same at and under the same rent, and subject to the same covenants and conditions, as I now hold the same. And I have this day paid to the said L. M. the sum of (one shilling) for and on account, and in part payment, of the said rent. Dated this —— day of ——, 188—.

W. P.

Witness :

V. N., of (*residence and addition*).

1695.

Notice of motion or summons for tenant to attorn, and pay rent (*c*). [Dan. Pr. 1693.]

Formal parts : see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that W. P., of [*residence and addition*], may be ordered, within seven days after service, to attorn and become tenant to L. M., the receiver appointed in this action, for or in respect of the (*Describe the property : see* Form 1693), now occupied by the said W. P. ; and to pay his rent in arrear and growing rent for the same to the said L. M.

(*b*) As to possession by or attornment to the receiver, see 1 Seton, 440, 441. As to attornment in general, and to a receiver, see Woodfall, 246—249.

(*c*) For forms of orders, see 1 Seton, 436, No. 1 ; *Ibid.*, 437, Nos. 2, 5. It is apprehended that the application will in general be made by summons. As to enforcing an order to attorn, see 1 Seton, 441.

1696.

Notice of motion or summons for tenant to attorn, and for occupation rent to be set (*d*). [Dan. Pr. 1694.]

Proceed as in Form 1695 *to* occupied by the said W. P. ; *and continue thus :*

And that an annual value, by way of rent, may be set upon the said premises during the time the said W. P. has been in the possession or occupation thereof ; and that the said W. P. may be charged therewith.

1697.

Affidavit in support of motion or summons to attorn. [Dan. Pr. 1693, 1694.]

Formal parts : see Form 6.

1. (*Prove service of order directing the appointment of a receiver and directing tenants to attorn to him ; see* Form 32.)

2. (*Prove service of further order or Chief Clerk's certificate (if any) completing the appointment : see* Form 32.)

3. (*Prove service of notice to attorn ; see* Form 31.)

4. (*Prove refusal to attorn.*)

5. (*Show means of knowledge*).

1698.

Notice of motion or summons for an examination *pro interesse suo* (*e*). [Dan. Pr. 1695.]

Formal parts : see Form 38, *or* 43 *or* 1077.

on the part of G. H., of (*residence and addition*), that an inquiry may be made whether the said G. H. has any and what interest in the real estate [*or as may be*], taken possession of by L. M. as the receiver appointed in this action, or in any and what part thereof.

Section II.—Powers, Duties, and Liabilities of Receivers (*f*).

(*Dan. Pr.*, pp. 1698—1703.)

1699.

Notice of motion or summons to pay arrears of rent to receiver (*g*). [Dan. Pr. 1699.]

Formal parts : see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that W. D., of (*residence and addition*), may be ordered, within seven days after service, to pay to L. M., the receiver appointed in this action, the sum of £——, due from the said W. D. for arrears of rent of the (*Describe the property : see* Form 1693), in respect of his occupation thereof from the —— 18—, to the —— 18—.

(*d*) See 1 Seton, 441. There would seem to be no reason why the application should not be made by summons.

(*e*) See 1 Seton, 428 ; 2 Seton, 1585 ; Kerr on Receivers, 129 ; *Searle* v. *Choat*, 25 Ch. D. 723 : 32 W. R. 397.

(*f*) As to salary and allowances to a receiver, see R. S. C. Ord. L. 16 ; note (*a*), at p. 717 ; 1 Seton, 424 ; Kerr on Receivers, 164—172. As to the powers, duties, and liabilities of receivers, see 1 Seton, 436—443 ; Kerr on Receivers, 138—163.

(*g*) For form of order, see 1 Seton, 437, No. 2.

1700.

Summons for leave for receiver to distrain (*h*). [Dan. Pr. 1699.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that L. M., the receiver appointed in this action, may be at liberty to distrain upon the goods and chattels of E. F., of (*residence and addition*), for the sum of £——, being arrears of rent due from him on the ——, 188—, in respect of the (*Describe the property: see* Form 1693).

If so: and that the said distress may be made in the name of the defendant C. D.; and that he may be indemnified in respect thereof out of the estate of the testator A. B. [*or as may be*].

1701.

Summons for leave for receiver to bring an action for arrears of rent (*i*). [Dan. Pr. 1699.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that L. M., the receiver appointed in this action, may be at liberty to commence and prosecute an action in the —— Division of Her Majesty's High Court of Justice [*Or*, in the County Court of —— holden at ——] in the name of the defendant W. J., as executor of the will of G. S., the testator in this action, against A. B., to obtain payment of £——, due for rent from the said A. B. to the said testator's estate; and that the defendant W. J. may be indemnified therein out of the said estate.

1702.

Notice of motion or summons for payment to receiver of moneys received by defendant (*j*). [Dan. Pr. 1701.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff, that the defendant E. A. may be ordered, on or before the ——, 188—, or subsequently within four days after service, to pay to L. M., the receiver appointed in this action, all moneys received by the said defendant in respect of [*State what*] since the appointment of such receiver: the amount to be verified by affidavit.

1703.

Summons for leave for receiver to cut and sell timber (*k*).

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff, that L. M., the receiver appointed in this action, may be at liberty to cut and fell the trees specified in the affidavit of C. D., filed the ——, 188—, and the exhibit marked A. thereto; and to sell the same by public auction, according to the usual particulars and conditions of sale in like case; and that the said receiver may receive the purchase money for the said trees, and bring the amount thereof into his account as such receiver.

(*h*) For form of order to distrain in a defendant's name, see 1 Seton, 437, No. 4. A formal order however need not in general be drawn up: the directions given in Chambers being sufficient. As to when the receiver may distrain in his own name, and when in the name of the person having the legal right to the rent, see Dan. Pr. 1699; Woodfall, 400, 401; 1 Seton, 442. As to distresses for rent, see Add. Cont. 566; Dixon, 265—305; Woodfall, 382—462.

(*i*) For form of order, see 1 Seton, 437, No. 5. A formal order however need not in general be drawn up.

(*j*) See *Lockwood* v. *Ellam*, V.-C. S., 20 Dec. 1866, Reg. Lib. A. 2640.

(*k*) For forms of order, see 1 Seton, 439, Nos. 10, 11.

1704. Other summonses relating to the management of property comprised in a receivership (*l*).

See the following forms, ante : which can be readily adapted to a receivership :—

Action : For leave to bring ; Form 1248 ; or defend ; Form 1249 ; or compromise ; Form 1253.
Business : For leave to carry on ; Form 1251.
Claim : For leave to compromise ; Form 1253.
Debts : For leave to pay ; Form 1252.
Enfranchisement : To approve agreements for ; Form 1256.
Lease : For leave to obtain renewal of ; Form 1258.
To approve agreement to grant ; Form 1259 (*m*).
Outstanding estate : For leave to convert ; Form 1250.
Repairs, or Drainage works : For leave to execute ; Form 1254 (*n*).

Section III.—Receivers' Accounts (*o*).

(*Dan. Pr.* 1703—1714.)

1705. Affidavit by receiver, verifying his account (*p*). [Dan. Pr. 1704.]

(*Title and reference to the record.*)

I, L. M., of (*residence and addition*), the receiver appointed in this cause, make oath and say, as follows :

1. The account marked with the letter A., produced and shown to me at the time of swearing this my affidavit (*q*), and purporting to be my account of the rents and profits of the real estate, and of the outstanding personal estate, of A. B., the testator [*or*, intestate] in this cause (*r*), from the —— day of ——, 188—, to the —— day of ——, 188—, both inclusive, contains a true account of all and every sum of money received by me, or by any other person or persons by my order or, to my knowledge or belief, for my use, on account or in respect of the said rents and profits (*r*), accrued due on or before the said —— day of ——, 188— (*s*),

(*l*) As to applications by receiver for directions, see 1 Seton, 442, 443.

(*m*) As to the power of a receiver to create tenancies, and grant leases, see Dan. Pr. 1700 ; 1 Seton, 441.

(*n*) As to repairs by receivers, see Dan. Pr. 1700 ; 1 Seton, 442. For forms of order, see *Ibid.*, 438, Nos. 8, 9.

(*o*) See 1 Seton, 443—447 ; Kerr on Receivers, 173—185 ; R. S. C. Ord. L. 18—22 ; and note (*a*), at p. 717. The account may be ordered to be taken in the office of or by a District Registrar : Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66). s. 66.

(*p*) See R. S. C. Ord. L. 20 ; App. L., No. 22 ; as amended by R. S. C. Oct. 1884, App. Form 3. The practice with regard to verifying receivers' accounts, and proceeding upon such accounts, varies considerably in the different Chambers. Before the account is carried in, the practitioner should ascertain by enquiry the practice which is followed in the Chambers where the account is to be disposed of.

(*q*) The affidavit must refer to the account as an exhibit, and not be annexed to it : R. S. C. Ord. XXXVIII. 23. For form of memorandum of exhibit, see Form 28.

(*r*) In describing the account, the language of the judgment or order appointing the receiver should be followed.

(*s*) The day to which the account is made up.

on account or in respect of the said personal estate, except what is included as received in my former account [*or*, accounts] sworn by me.

2. The several sums of money mentioned in the said account hereby verified to have been paid and allowed have been actually and truly so paid and allowed for the several purposes in the said account mentioned.

3. The said account is just and true in all and every the items and particulars therein contained, according to the best of my knowledge and belief.

4. A. B. and C. D.: the sureties named in the recognizance dated the —— day of ——, 188—, are both alive; and neither of them has become bankrupt or insolvent.

If the security was given by Bond of a Guarantee Society, say: The —— Society, my sureties named in the bond dated the —— day of ——, 188—, is still carrying on business, and no petition is pending for its winding-up (*ss*).

Sworn (*&c.: see* Form 9).

1706. Account of receiver (*t*). [Dan. Pr. 1703.]

(*Title and reference to the record.*)

The first [*or as may be*] account of L. M., the receiver appointed in this cause [*or*, pursuant to an order made in this cause, dated the —— day of ——, 188—], to receive the rents and profits of the real estate, and to collect and get in the outstanding personal estate of A. B., the testator [*or*, intestate] in this cause named (*u*): from the —— day of ——, 188—, to the —— day of ——, 188—.

REAL ESTATE.—RECEIPTS.

No. of item.	Date when received.	Tenants' Names.	Description of premises.	Annual rent.	Arrears due at ——, 188—.	Amount due at ——, 188—.	Amount received.	Arrears remaining due.	Observations.
				£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	(*v*)
1		John Jones	Home Farm, in the Parish of Norton, in the County of Oxford.						
2		Thomas Jones	House at Norton aforesaid.						

(*ss*) This clause is not in the Official Form, but is usually required to be deposed to, where applicable.

(*t*) See R. S. C. Ord. L. 19; App. L., No. 14; and note (*a*), at p. 717. As to charging the receiver with interest, and disallowing his salary on default, see R. S. C. Ord. L. 18; Dan. Pr. 1705—1708; 1 Seton, 445, 446. As to furnishing copies of the account, see Dan. Pr. 1704. As to the mode of substantiating and completing the account, and as to the parties entitled to costs, see Dan. Pr. 1704.

(*u*) The description of the account should accord with the order appointing the receiver.

(*v*) In the first account, it should be stated in this column how each tenant holds; and every alteration should be noticed in the subsequent accounts. In this column should also be entered any remarks the receiver may think proper to make as to the arrears of rent, the state of repairs, or otherwise; Bloxam, 51; Dan. Pr. 1703.

Payments and Allowances on Account of Real Estate.

No. of item.	Date of payment or allowance.	Names of persons to whom paid or allowed.	For what purpose paid or allowed.	Amount.
				£ s. d.
1		Sun Fire Office .	One year's insurance of —, due — . .	
2		Thomas Carpenter	Bill for repairs at house let to Thomas Jones.	
3		James Francis .	Allowance for a half year's income tax, due — . . .	
			Total payments £	

Receipts on Account of Personal Estate.

No. of item.	Date when received.	Names of persons from whom received.	On what account received.	Amount received.
				£ s. d.

Payments and Allowances on Account of Personal Estate.

No. of item.	Date when paid or allowed.	Names of persons to whom paid or allowed.	For what purpose paid or allowed.	Amount paid or allowed.
				£ s. d.

Summary.

	£ s. d.	£ s. d.
Amount of balance due from receiver on account of real estate on last account		
Amount of receipts on the above account of real estate		
	£ s. d.	
Balance of last account paid into Court		
Amount of payments and allowances on the above account of real estate		
Amount of receiver's costs of passing this account as to real estate		
Balance due from the receiver on account of real estate . . . . . £		

	£ s. d.	£ s. d.
Amount of balance due from receiver on last account of personal estate		
Amount of receipts on the above account of personal estate		
	£ s. d.	
Balance of last account paid into Court		
Amount of payments and allowances on the above account of personal estate		
Amount of receiver's costs of passing this account as to personal estate		
Balance due from the receiver on account of personal estate . . . . . £		

1707.

Summons to proceed on account (*w*). [Dan. Pr. 1703.]

Formal parts: see Form 43 *or* 1077.

on the part of L. M., the receiver appointed in this action, to proceed on his first [*or as may be*] account.

1708.

Notice of appointment to proceed on account (*x*).

Formal parts: see Form 37.

The Chief Clerk of Mr. Justice —— has appointed ——, the —— day of ——, 188—, at —— of the clock in the ——noon, at his Chambers in the Royal Courts of Justice, to proceed on the (first) account of L. M., the receiver appointed in this action.

1709.

Chief Clerk's certificate of allowance of account (*y*). [Dan. Pr. 1705.]

(*Title and reference to the record.*)

In pursuance of the directions given to me by Mr. Justice ——, the Judge to whose Court this action is assigned, I hereby certify that in pursuance of the judgment [*or*, order] made in this action, dated the —— day of ——, 188— [*If so:* and the order—*or*, Chief Clerk's certificate—dated the —— day of ——, 188—], L. M., the person appointed to receive the rents and profits of the real estate, and to collect and get in the outstanding personal estate of C. D., the testator [*or*, intestate] in this action named [*or as may be*], has left in the chambers of the said Judge his first [*or as may be*] account as such receiver of his receipts and payments and allowances in respect of the said rents and profits, and outstanding personal estate [*or as may be*], from the time of his appointment, the —— day of ——, 188— [*or*, from the —— day of ——, 188—], to the —— day of ——, 188—, both inclusive; and such account is verified by the affidavit of the said receiver filed on the —— day of ——, 188—, and has been passed and allowed; and the same account so passed and allowed is to be retained in chambers [*or*, is to be filed with this certificate (*z*)].

The said receipts amount altogether to the sum of £——; and the

(*w*) This summons is, it is believed, still required to be issued in some of the Chambers: though having regard to the language of R. S. C. Ord. L. 20 (see note (*a*), at p. 717), it is submitted that no such summons is necessary.

(*x*) See R. S. C. Ord. L. 20; and note (*a*), at p. 717. The appointment is to be obtained by the plaintiff or person having the conduct of the cause.

(*y*) See R. S. C. Ord. L. 22, as amended by R. S. C. Oct. 1884, 13; and note (*a*), at p. 717. The form in the text is framed to meet the new practice introduced by that rule, which is intended to abolish the use of receivers' books. It is believed that in some of the Chambers the accounts are still required to be entered in books. On taking an account of a receiver or manager, a fee is payable of 1*s.* for every 100*l.* or fraction of 100*l.* of the amount found to have been received, without deducting any payment; but the amount in respect of which such fee is payable is limited to 200,000*l.* on any one account: Ord. as to S. C. Fees, 1884, Sched. No. 72 and p. 13. The fees are upon payment to be allowed in the account, unless the Court or Judge otherwise directs: Ord. as to S. C. Fees, 1884, pp. 13, 14. The fees are to be paid by means of a stamp impressed upon or adhesive to the certificate: Ord. as to Fees, &c., July, 1884, p. 9.

(*z*) See R. S. C. Ord. LV. 68.

said payments and allowances to the sum of £——; as appears by the said account: except that (*Here state any disallowances or surcharges, as in the case of an executor's account: see* Form 1410 (1)); and there is due from the said receiver, as the balance of such account, the sum of £——: which sum of £——, in pursuance of the direction contained in the said judgment [*or*, order] of the —— day of ——, 188—, is to be paid by the said L. M. into Court to the credit of this action, to the account entitled "the real estate account" [*or as may be*], on or before the —— day of ——, 188—.

Dated (*&c.: see* Form 1410).

1710.

Summons by receiver, for further time to leave his account.

Formal parts: see Form 43 *or* 1077.

on the part of L. M., the receiver appointed in this action, that he may have —— days further time to leave in my Chambers his (first) account as such receiver, pursuant to the order dated the —— day of ——, 188—.

1711.

Summons for a short, or four day order, to compel receiver to leave account (*a*).

[Dan. Pr. 1706.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that L. M., the receiver appointed in this action, may be ordered, within (four) days after service, to leave in my Chambers his (first) account as such receiver, pursuant to the order dated the —— day of ——, 188—; and that the said L. M. may be ordered to pay the costs of this application.

1712.

Summons by receiver, for leave to pay money into Court on account (*b*).

[Dan. Pr. 1705.]

Formal parts: see Form 43 *or* 1077.

on the part of L. M., the receiver appointed in this action, that he may be at liberty to pay into Court, to the credit of this action [*or as may be*], the sum of £——, part of the rents and profits, and £——, part of the outstanding personal estate, respectively received and got in by him as such receiver; and that his costs of this application may be retained by him, and allowed in his accounts.

1713.

Summons to compel receiver to pay balance into Court.

[Dan. Pr. 1706.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that L. M., the receiver appointed in this action, may be ordered, on or before the —— day of ——, 188—, or subsequently within four days after service, to pay into Court, to the credit of this action [*or as may be*], the sum of £——, by the Chief Clerk's certificate, dated the ——, 188—, certified to be due from him on passing his (first) account therein mentioned; and that the said L. M. may be ordered to pay the costs of this application.

(*a*) For form of order, see 1 Seton, 443, No. 1.

(*b*) Payments of this description can ordinarily be made on a request under S. C. Funds Rules, 1884, 30, without the expense of an order.

1714.
Summons for leave for representative of deceased receiver to pass his final account (*c*). [Dan. Pr. 1709.]

Formal parts: see Form 43 *or* 1077.
on the part of E. F., the executor of the will [*or*, administrator of the personal estate] of L. M., late the receiver in this action, that he
Or, on the part of the plaintiff, *&c.*, that E. F., the executor (*&c.; as above*),
may be at liberty to carry in and pass the accounts of the said L. M., as such receiver, from the foot of his last certified account, to the time of his decease; and to pay the balance which may be certified to be due from his estate into Court, to the credit of this action [*or as may be*]. And that thereupon the recognizance dated the ——, 188—, entered into by the said L. M., together with C. D. and E. F. as his sureties, may be vacated; and that the costs of the said E. F. of this application, and consequent thereon, as between solicitor and client, may be retained by him, and be allowed on passing the said accounts.

1715.
Summons for leave to put recognizance in suit (*d*). [Dan. Pr. 1709.]

Formal parts: see Form 43 *or* 1077.
on the part of the plaintiff [*or as may be*], that he may be at liberty
Or, that the defendant C. D., the executor of the will of A. B., the testator in this action [*or as may be*] may be ordered
to put in suit the recognizance, dated the —— day of ——, 188—, entered into by L. M., the (late) receiver in this action, together with C. D. and E. F., his sureties.

1716.
Notice of motion or summons by surety, to stay action on the recognizance. [Dan. Pr. 1714, 1718.]

Formal parts: see Form 38, *or* 43 *or* 1077.
on the part of A. B., in the order dated the —— day of ——, 188— (*Order to put recognizance in suit*), named, that (*State terms proposed; as thus:*
on payment by him into Court, to the credit of this action, on or before the —— day of ——, 188—, of the sum of £——, and on payment also by him of the costs of obtaining the said order, and of this application, and of the action now pending against the said A. B., upon the recognizance in the said order mentioned)
all further proceedings against the said A. B., upon the recognizance in the said order mentioned, may be directed to be stayed.

(*c*) For form of order, see 1 Seton, 452, No. 2.
(*d*) For form of order, see 1 Seton, 444, No. 3. As to the practice for putting a receiver's recognizance in suit by *scire facias*, see 12 & 13 Vict. c. 109; Dan. Pr. 1709—1714; 1 Seton, 447. For forms of proceedings by *scire facias*, see Dan. Forms, 2nd ed., Nos. 1872—1881. As to proceedings by *scire facias* generally, see Chitty's Arch. 817—824

Section IV.—Discharge of Receiver (*e*).

(*Dan. Pr.*, pp. 1715—1717, ccccxiv.)

1717

Notice of motion or summons to discharge receiver (*f*).]Dan. Pr. 1716.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that L. M., the receiver appointed in this action, may be discharged; and that he may be ordered to pass his final account as such receiver, and pay the balance certified to be due from him thereon into Court, to the credit of this action [*or as may be*]; and that thereupon the recognizance dated the ——, 188—, entered into by the said L. M., together with C. D. and E. F. as his sureties, may be vacated.

Add, if desired, a clause as to costs; as thus: And that the costs of all proper parties of this application, and consequent thereon, may be taxed as between solicitor and client; and that the said L. M. may be directed to pay such costs, and be allowed the same on passing his said account.

1718.

Summons to vacate receiver's recognizance (*g*). [Dan. Pr. 1716.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the recognizance dated the —— day of ——, 188—, entered into by L. M., the receiver in this action, together with C. D. and E. F. as his sureties, may be vacated.

Section V.—Liabilities and Rights of Sureties (*h*).

(*Dan. Pr.*, pp. 1717, 1719, ccccxiv.)

1719.

Summons for receiver to give a new security, on death or bankruptcy of a surety (*i*). [Dan. Pr. 1717.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that L. M., the receiver appointed in this action, may be ordered to give a new security duly to account for what he shall receive as such receiver: C. D., one of his sureties hereinafter named having died [*or*, having been adjudged bankrupt—*or as may be*]; and that such security may be approved by the Judge. And that the said L. M. may be ordered to pass his accounts up to the date of such new security; and pay the balance certified to be due from him thereon into Court, to the credit of this action [*or as may be*]; and that, upon such new security being given, and payment in manner aforesaid of the said balance, the recognizance dated the ——, 188—, entered into by the said L. M., together with C. D. and E. F., as his sureties, may be vacated.

(*e*) As to discharge of receiver, see 1 Seton, 453, 454; Kerr on Receivers, 186—192.

(*f*) For form of petition, see Dan. Forms, 3rd ed., No. 1700. The application is usually made by summons. For form of order, see 1 Seton, 452, Nos. 1—3.

(*g*) As to vacating the recognizance, see R. S. C. Ord. LX. 4; Dan. Pr. 1716, ccccxiv.; 1 Seton, 453.

(*h*) See 1 Seton, 446, 447; Kerr on Receivers, 193—196.

(*i*) For forms of order, see 1 Seton, 444, Nos. 4, 5.

1720.

Summons to reduce the security of a receiver given by bond of a Guarantee Society.

Formal parts: see Form 43 *or* 1077.

on the part of L. M., the receiver in this action [*or as may be*], that the security given by the said L. M., as such receiver, by the bond entered into by him, together with the —— Society as his sureties, dated the —— day of ——, 188—, and enrolled on the —— day of ——, 188—, be, on the consent (*k*) of the said —— Society, reduced from the sum of £——, the amount named in the said bond, to the sum of £——; and that the said bond of the said —— Society, dated the —— day of ——, 188—, shall, as from the —— day of ——, 188—, stand as a security for the sum of £—— (*the reduced amount*), and no more; and that the liability of the said —— Society in respect of the matters mentioned in the said bond be, as from the —— day of ——, 188—, limited to the said sum of £—— (*the reduced amount*).

1721.

Summons by surety, for leave to attend the passing of receiver's account (*l*). [Dan. Pr. 1718.

Formal parts: see Form 43 *or* 1077.

on the part of C. D., one of the sureties in this action for L. M., the receiver appointed therein, that the said C. D. may be at liberty to attend, at his own expense, the passing of the accounts of the said L. M. as such receiver [*or as may be*].

(*k*) Such consent is usually given in writing.

(*l*) For like order where the receiver has died, see *Sharp* v. *Wright*, M.R. at Cham. 15 Jan. 1878. As to re-opening the accounts of a defaulting official liquidator, at instance of his sureties, see *In re Birmingham Brewing, &c., Co.*, W. N. (1883), 7: 31 W. R. 415.

CHAPTER XXIX.

BRINGING FUNDS AND EFFECTS INTO COURT AND DEALING THEREWITH (*a*).

(*Dan. Pr.*, pp. 1721—1800, ccccxiv.—ccccxvi.)

SECTION I.—THE PAY OFFICE (*b*).

(*Dan. Pr.*, pp. 1721—1733, ccccxiv., ccccxv.)

(*a*) See Chancery Funds Act, 1872 (35 & 36 Vict. c. 44); Supreme Court of Judicature (Funds, &c.) Act, 1883 (46 & 47 Vict. c. 29); R. S. C. Ord. XXII. 12; LXII. 16; Supreme Court Funds Rules, 1884.

By 46 & 47 Vict. c. 29, s. 1, it is provided that there shall be one accounting department for the Supreme Court of Judicature; and by s. 2, all securities and money vested in the Paymaster-General in pursuance of the Chancery Funds Act, 1872, and all securities and money thereafter transferred or paid into or deposited in Court to the credit of any cause, matter, or account in the Chancery Division, are to be vested in Her Majesty's Paymaster-General for and on behalf of the Supreme Court of Judicature, and are to continue to be and be subject to all the provisions of the Chancery Funds Act, 1872, and the rules in force under that Act; subject to such alterations therein, and to such other and further rules, as shall from time to time be made, as thereby provided.

In the Chancery Division, the manner of payment into and out of Court, and of dealing with money in Court, is to be subject to the rules for the time being under the Chancery Funds Act, 1872: R. S. C. Ord. XXII. 12; and all orders for bringing money or securities into Court, and for the payment or transfer out of money or securities, are to be drawn up in conformity with the rules made from time to time under the same or any amending Act: *Ibid.*, LXII. 16.

Rules have been framed under the Chancery Funds Act, 1872, and the Supreme Court of Judicature (Funds, &c.) Act, 1883, which rules are known as "The Supreme Court Funds Rules, 1884;" and came into operation on 1st March, 1884. These rules prescribe the mode of dealing with funds in Court: the Chancery Funds Consolidated Rules, 1874, all other rules or general orders prescribing the mode of dealing with funds in Court, and containing any provisions inconsistent with S. C. Funds Rules, being revoked, except so far as is indispensable for giving effect to orders not fully acted upon before 1st March, 1884: S. C. Funds Rules, 1884, r. 2. The Chancery Funds Amended Orders, 1874, appear not to be repealed, except so far as they are inconsistent with S. C. Funds Rules, 1884. The rules do not apply in District Registries to funds in Court or hereafter lodged in Court: S. C. Funds Rules, 1884, r. 111: see *In re Wilson, Wilson* v. *Alltree*, 27 Ch. D. 242: 32 W. R. 897.

As to the Supreme Court Funds Rules, see Mackenzie & White, on the Rules.

(*b*) The term "Paymaster" means Her Majesty's Paymaster-General for the time being, for and on behalf of the Supreme Court of Judicature, or the Assistant Paymaster-General for Supreme Court business for the time being deputed by the Paymaster-General to act on his behalf for such business; and "Pay Office" means the Paymaster-General's Office for business of the Supreme Court of Judicature: S. C. Funds Rules, 1884, r. 3.

1722.

Request for certificate of dealing with money or securities in Court (*e*). [Dan. Pr. 1729.]

Chancery: —— Division.
To the Assistant Paymaster-General.

—— day of ——, 188—.

A certificate of (*State the transaction of which the certificate is desired, as thus:* the transfer), on the —— day of ——, 188—, of (*State the fund dealt with*), then standing to the ledger credit hereunder specified (*State the title of the action or matter, and account, if any*), is requested for the use of (*State for what purpose the certificate is required*).

(*Name and address of person claiming to be interested, or of party applying on his behalf* (*d*).

1723.

Request for certificate of funds in Court (*e*). [Dan. Pr. 1721.]

Chancery: —— Division.
To the Assistant Paymaster-General.

—— day of ——, 18—.

As [*or*, On behalf of] a person claiming to be interested in the funds in Court standing to the ledger credit hereunder specified, I request a certificate of the said funds (*State here title of action or matter, and of each separate ledger credit* [*or, account*] (*f*)).

(*Signature*) ——.
(*Address*) ——.

(*c*) See S. C. Funds Rules, 1884, r. 100. A fee of 1*s.* is payable on the request: by a stamp impressed or affixed: Ord. as to S. C. Fees, 1884, Sched. No. 106; Ord. as to Fees, &c., July, 1884, p. 11.

(*d*) By Chancery Funds Cons. Rules, 1874, the name and address of a solicitor was required to be written or printed on the request: r. 93. There appears to be no similar provision in S. C. Funds Rules, 1884; but, where the request is not made by the party interested in person, it is presumed that the signature of a solicitor will be required in all cases: see *Ibid.*, r. 101.

(*e*) *Certificate of funds in Court.*—See S. C. Funds Rules, 1884, r. 99. The certificate will have reference to the morning of the day of the date thereof, and will not include the transactions of that day: *Ibid.* The Paymaster will notify on the certificate the dates of any restraining or charging orders affecting the funds in Court to the ledger credit mentioned in the certificate, and whether such restraining orders affect principal or interest, and the names of the persons to whom notice is to be given, or in whose favour such orders have been made: *Ibid.* Where the funds stand to a ledger credit contained in the list of dormant funds, no information will be given by the Paymaster respecting them, except upon a request signed by the person applying for such information. If the request is made by a solicitor, it must state the name of the person on whose behalf it is made, and that such person is in the opinion of the applicant beneficially interested in the funds. If the request is made by any person other than a solicitor, the information will not be given, unless the applicant is able to satisfy the Paymaster that the request is such as may in the particular case be properly complied with: S. C. Funds Rules, 1884, r. 101. A fee of 1*s.* is payable on the request for a certificate in ordinary cases, and of 2*s.* 6*d.* in the case of a request for information respecting any funds contained in a list of dormant funds: Ord. as to S. C. Fees, 1884, Sched. Nos. 104, 107; Ord. as to Fees, &c. July, 1884, p. 11.

(*f*) No general description will be attended to: see note to Official Form.

1724.

Request for transcript of accounts (*g*). [Dan. Pr. 1729.]

Chancery: —— Division.

To the Assistant Paymaster-General.

A transcript of the account in your books in (*State the title of the action or matter, and of each separate ledger credit, if any* (*h*)), is requested.

Dated the —— day of ——, 188—.

(*Name and address of person claiming to be interested, or of party applying on his behalf.*)

Section II.—Bringing Money and Securities into Court (*i*).

(*Dan. Pr.*, pp. 1733—1758, cccxv.)

(*i*) *Lodgment of Funds in Court.—Summary of Material Provisions of S. C. Funds Rules*, 1884.

Lodyment schedule.—Every order directing funds to be lodged in Court must have annexed thereto a lodgment schedule; which must be headed with the title of the cause or matter, the date of the order, and the title of the ledger credit to which the funds are to be placed; and must set out, in a tabular form (*a*) the name or a sufficiently identifying description of the person to make the lodgment; (*b*) the amount of money and the description and amount of securities, if ascertained. It must be in the prescribed form; and it may direct the investment and accumulation of the funds, or the dividends or interest on the funds, to be lodged . . . . . R. 5.

When a separate account is opened.—When funds in Court are directed to be carried over to a separate account, the title of the ledger credit to be opened must commence with the title of the cause or matter to which such funds are standing . . . ,, 7.

Combined lodgment and payment schedule.—This will be required, and in the prescribed form, in the case of an order which directs or authorises the lodgment of funds in Court, and also deals with such funds or with funds already in Court to the same ledger credit . . . . . ,, 8.

Separate schedule for each ledger credit.—Separate lodgment schedules must be made out for each ledger credit to which funds are directed to be placed . . . . . ,, 9.

Instructions to paymaster.—Must be contained in the schedule, and not in the body of the order . . . . . ,, 10.

Draft schedule.—When an order is made dealing with funds in Court, or to be brought into Court, in accordance with minutes agreed upon by the parties, the solicitor having carriage of the order must prepare and lodge with the registrar a draft lodgment and payment schedule. . . . . ,, 22.

To what account funds to be placed.—All funds to be paid into or deposited in Court must be paid or deposited at the Bank of England (Law Courts Branch), and placed in the books of the Bank to the account of the Paymaster General for and on

(*g*) See S. C. Funds Rules, 1884, r. 100. A fee of 2*s.* is payable for each opening, including the request: by a stamp impressed on the transcript: Ord. as to S. C. Fees, 1884, Sched. No. 105; Ord. as to Fees, &c., July, 1884, p. 11.

(*h*) No general description will be attended to: see note to Official Form

behalf of the Supreme Court of Judicature; and a receipt will be given by the Bank to the person making the payment or deposit. All securities to be transferred into Court must be transferred to the same account in the books of the Bank, or other company in whose books such securities are registered . R. 29.

Manner of lodgment.—(*a*) A lodgment *not directed by order* is made upon a direction to the Bank, or other company, to be issued by the Paymaster on a request signed by or on behalf of the person desiring to make the lodgment; but no such lodgment will be placed to a separate account unless an order has directed such separate account to be opened. (*b*) A direction for a lodgment *directed by an order* will be issued by the Paymaster upon receipt of a copy of the lodgment schedule; and a direction for lodgment under the Trustee Relief Act will be issued upon receipt of a copy of the lodgment schedule to the affidavit (as to which see r. 41). The request for a direction must state the name of the person by whom the funds are to be lodged, the ledger credit to which the funds are to be placed, and the date of the authority or certificate in pursuance of which the funds are to be lodged. (*c*) In case of lodgments in pursuance of Acts of Parliament, the request for a direction must contain a reference to the Act, and specific authority thereby required (as to lodgments under Lands Clauses Consolidation Act, 1845, and Copyhold Acts, see rr. 39, 40) . . . . . ,, 30.

As to lodgments pursuant to R. S. C. Ord. XXII., and Ord. XXXI. 26, the circumstances under which the lodgment is made must be stated in the request (see Appendix, Form 7; and r. 33) . . . . . ,, 30.

Conditional lodgment in urgent cases.—When it is desired to bring money into Court without waiting for a direction for the Bank to receive it, it may be lodged to the credit of a Supreme Court Suspense Account, upon an application signed by the person desiring to lodge the same, or his solicitor, specifying the amount and the title of the ledger credit to which it is desired to be lodged. The person making the lodgment must forthwith bespeak the direction of the Paymaster for the Bank to receive the money, and leave such direction at the Bank for the purpose of having the money so lodged transferred to the Pay Office Account, and placed to the ledger credit mentioned in such direction . . . . . ,, 31.

Sending by post.—Requests and directions may be so sent . ,, 35.

Funds may be lodged after expiration of time limited by order.—A person directed to make a lodgment in Court may make the same without further order, although the order has not been served or the time thereby limited has expired. . . . ,, 36.

Direction to be returned to Paymaster.—Upon receipt or transfer of funds and securities, the Bank or other company is forthwith to send the direction to the Paymaster with a certificate thereon of receipt or transfer . . . . . ,, 37.

Filing certificate.—A certificate of lodgment must be filed at the Central Office when the direction or other authority is returned to the Pay Office with such certificate thereon . . ,, 38.

Money lodged under Lands Clauses, &c., Act, s. 69.—Such money must be placed in the Pay Office Books to credit of *ex parte* the promoters of the undertaking, in the matter of the special Act (citing it), and some words must be added briefly expressive of the nature of the disability to sell or convey, by reason of which the payment is made, and such particulars are to be stated in the request for the direction to receive the money . . . . . ,, 39.

Money lodged under the Copyhold Acts.—Such money must be placed in the Pay Office Books to credit of "*ex parte* the Land Commissioners of England," and of the particular manor; and

in the request for a direction the name and locality of such manor must be stated . . . . . R. 40.

Lodgments under Trustee Relief Act.—In such case a lodgment schedule must be annexed to the affidavit, setting forth (*a*) the name and address of the person desiring to make the lodgment; (*b*) the amount of money and description and amount of securities to be lodged; (*c*) the ledger credit to be opened; (*d*) a statement whether duty has or has not been paid; (*e*) a statement whether the money or the dividends on the securities to be lodged are desired to be invested, or whether it is deemed unnecessary to invest. The necessary direction for giving effect to the lodgment will be issued by the Paymaster on receipt of an office copy of such schedule . . . . . ,, 41.

Proceeds of securities and dividends.—Principal money or dividends received by the Bank in respect of securities standing to the Pay Office Account are to be placed in the Pay Office books to the ledger credit to which such securities were standing ,, 42.

As to bringing funds into Court, see 1 Seton, 73—88.

1725.

Application to lodge money at the Bank to a suspense account, in an urgent case (*k*). [Dan. Pr. 1754.]

Chancery Division.

In the cause [*or*, matter] of A. *v.* B.

In accordance with Rule 31 of the Supreme Court Funds Rules, 1884, please to receive the sum of £——, and place the same to the Supreme Court Suspense Account: to be hereafter transferred to the account of the Paymaster-General, for and on behalf of the Supreme Court of Judicature, in manner provided by the said Rules, as ordered (*l*).

Dated this —— day of ——, 188—.

X. & Y.
Solicitors to G. H.

To the Governor and Company of the Bank of England.

1726.

Request for directions for lodgment of cash (*m*).

(*Short title and reference to the record.*)

Ledger credit to which lodged. } (*If same as title of cause, state:* "As above.")

Date of order or certificate (if any) under which lodged (n): ——.

Further particulars (if any) required to be stated: ——.

The Paymaster is hereby requested to issue a direction to the bank to

(*k*) See Supreme Court Funds Rules, 1884, r. 31; and note (*i*), *supra*. The money will be paid at the Bank of England (Law Courts Branch), where the form of request is to be obtained. For form of order, with lodgment schedule, for transferring into Court a fund lodged to a suspense account, see Mackenzie & White, 103.

(*l*) If the money is tendered under the Lands Clauses Consolidation Act, 1845, erase the word "ordered," quote the Act, and insert the names of the persons interested in the purchase-money or compensation claimed: note to Official Form; and see note (*i*), *supra*.

(*m*) See S. C. Funds Rules, 1884, r. 30; App. No. 5; and note (*i*), *supra*. A fee of 1*s*. is payable on the request: by a stamp impressed thereon: Ord. as to S. C. Fees, 1884, Sched. No. 106; Ord. as to Fees, &c., July, 1884, p. 11.

(*n*) *Sic* in Official Form, but it would seem that the request is only applicable to a case where the lodgment is not made pursuant to an order: S. C. Funds Rules, 1884, r. 30; Mackenzie & White, p. 21.

receive from (*State name of the person by or on whose behalf the cash is to be lodged*) the sum of £——, for the ledger credit in the books of the Pay Office above specified.

(*Signature*) ——.

1727.

Paymaster's direction for lodgment (*p*).

To the agent of the Bank of England (*o*) (Law Courts Branch).

Please receive the above-stated sum, and place it to the account of the Paymaster-General for and on behalf of the Supreme Court of Judicature.

(*Signature*) ——.

1728.

Bank certificate of receipt (*q*).

To the Assistant Paymaster-General.

Bank of England, ——, 188—.

The above-stated sum has been this day received.

For the Governor and Company of the Bank of England,

(*Signature*) ——.

[Entd. No. ——.]

1729.

Notice of motion or summons for payment of money into Court (with interest) (*r*). [Dan. Pr. 1744.]

Formal parts: see Form 38, *or* 43 *or* 1077.

If the payment in is voluntary, say: on the part of the defendant C. D. [*or as may be*], that he may be at liberty on or before the —— day of ——, 188— (*s*),

If the application is made hostilely against a party (*t*), *say:* on the part of the plaintiff [*or as may be*], that the defendant C. D. [*or as may be*] may be ordered, on or before the —— day of ——, 188—, or subsequently within (seven) days after service of this order upon him (*u*),

In either case, proceed thus: to pay into Court to the credit of this cause, B. *v.* D., 188—, B. 100,

(*o*) The request must be signed by or on behalf of the person desiring to make the lodgment: S. C. Funds Rules, 1884, r. 30.

(*p*) See S. C. Funds Rules, 1884, r. 30; App. No. 5. The direction is printed at the foot of the request.

(*q*) See S. C. Funds Rules, 1884, r. 37; App. No. 5. As to filing the certificate, see *Ibid.*, r. 38. This certificate is printed at the foot of the direction.

(*r*) As to the mode in which an application for payment into Court is made, and the evidence by which it should be supported, see Dan. Pr. 1744—1748. The application is usually made by summons, *Ibid.* For forms of orders, see 1 Seton, 73, Nos. 1—3. The direction for payment into Court will be contained in a lodgment schedule to the order; upon receipt of a copy of such schedule, the Paymaster will issue a direction for lodgment: see S. C. Funds Rules, 1884, r. 30; and note (*i*), *supra*.

(*s*) See S. C. Funds Rules, 1884, r. 36; and note (*i*), *supra*.

(*t*) As to the cases in which a payment in will be ordered hostilely, see Dan. Pr. 1733—1744. As to application on admissions, see *Ibid.*, 1744—1747; 1 Seton, 83; see also the cases cited in Dan. Pr. (*ubi supra*); and *Hampden* v. *Wallis*, 27 Ch. D. 251: 32 W. R. 977.

(*u*) See S. C. Funds Rules, 1884, r. 36; and note (*i*), *supra*.

If to a separate account, add: to an account to be intituled "The account of," &c. (*v*).

If the sum paid in is to be placed to a separate account, and is subject to legacy or succession duty, add: subject to duty (*w*).

the sum of £—— due from him as (*State how*).

If interest is to be paid (*x*), *add:* together with interest thereon, at the rate of £5 per cent. per annum, from the —— day of ——, 188—, to the day for payment, after deducting income-tax.

If investment is desired, add: and that the said £—— (and interest) may be invested in consolidated £3 per cent. annuities and accumulated.

1730.

Request for lodgment or transfer of securities (*y*).

(*Short title and reference to the record.*)

Ledger credit to } (*If same as title of action, state:* "As above.")
which lodged. }

Authority is hereby requested for the lodgment or transfer to the account of the Paymaster-General, for and on behalf of the Supreme Court of Judicature, of the securities mentioned below, for the ledger credit in the books of the Pay Office above specified.

To be lodged or transferred by (*State name of the person by or on whose behalf the lodgment or transfer is to be made*).

Description and amount of securities; *as thus:* £500 consolidated £3 per cent. Annuities.

Date of order (if any) (*z*) ——, 188—.

(*Signature* (*a*)) ——.

1731.

Paymaster's direction for lodgment or transfer (*b*).

Authority is hereby given for the lodgment or transfer of the above-mentioned securities to the account of the Paymaster-General for and on behalf of the Supreme Court of Judicature.

(*Signature*) ——.

1732.

Bank certificate of lodgment or transfer (*c*).

(*Address* ——.) (*Date*) ——, 188—.

It is hereby certified that in accordance with the above authority, the

(*v*) As to the length of the title of an account, see S. C. Funds Rules, 1884, r. 103.

(*w*) See S. C. Funds Rules, 1884, r. 20.

(*x*) *Ibid.*, r. 36.

(*y*) *Ibid.*, r. 30; App. No. 6; and note (*i*), at p. 743. As to the fee payable on the request, see note (*m*), to Form 1726.

(*z*) *Sic* in Official Form; but the request seems to be applicable only to a case of lodgment or transfer without order: S. C. Funds Rules, 1884, r. 30.

(*a*) The request must be signed by or on behalf of the person desiring to make the lodgment or transfer: S. C. Funds Rules, 1884, r. 30.

(*b*) See S. C. Funds Rules, 1884, r. 30; App. No. 6.

(*c*) *Ibid.*, r. 37; App. No. 6. As to filing the certificate, see *Ibid.*, r. 38. Under rules made in pursuance of Acts of Parliament, the Bank or other company in whose books the transfer herein authorized is made, must certify such transfer hereon, and return this document to the Assistant Paymaster-General, Royal Courts of Justice, London: note to Form 1732, as officially issued.

securities herein mentioned have this day been lodged or transferred to the account of the Paymaster-General.

(*Signature*) ——.

[Entd. No. ——.]

1733. Notice of motion or summons for transfer of stock and payment of dividends into Court (*d*). [Dan. Pr. 1744, 1747.]

Formal parts: as in Forms 38, *or* 43 *or* 1077.

Proceed as in Form 1729, *down to* upon him, *and continue thus:* to transfer (*Describe the fund to be transferred, and in whose name it stands, as thus:* £1,500 New £3 per cent. annuities) standing in his name into Court to the credit of this action, B. *v.* D., 1876, B. 100.

If to a separate account, add: to an account to be intituled "The account of," *&c.* (*e*).

If the stock is to be placed to a separate account, and is subject to legacy or succession duty, add: subject to legacy [*or*, succession] duty (*f*).

And that the said defendant C. D. may be at liberty [*or*, may be ordered] to receive any dividends now due on the said annuities,

Add, where applicable: and also any dividends on the said annuities which may become payable to him after such transfer,

and within (seven) days after such receipt of the said dividends (respectively) or subsequently within (seven) days after service of this order upon him, to pay such dividends (respectively) into Court to the same credit.

If an investment of the dividends is desired (*g*), *add:* And that such dividends, when so paid in, may be invested in like annuities, and that the dividends to accrue on the annuities so to be transferred and purchased may be from time to time invested in like annuities.

(*d*) *Transfer into Court.*—The securities which may be directly transferred into or deposited in Court, are the following: (1.) Government securities; (2.) Securities of any foreign state; (3.) Securities of any part of Her Majesty's dominions out of the United Kingdom; (4.) Securities of any body corporate or company in the United Kingdom, or standing in books kept by any body corporate, company, or person in the United Kingdom: Chancery Funds Act, 1872 (35 & 36 Vict. c. 44), ss. 3, 6. Other securities will not be received into Court except in a box: 1 Seton, 84. As to a voluntary transfer into Court without an order, see Supreme Court Funds Rules, 1884, r. 30. As to the cases in which a party will be ordered to make a transfer into Court, see Dan. Pr. 1733—1744; upon whose application, *Ibid.*, 1744—1746; the mode in which the application should be made, and the evidence by which it should be supported, *Ibid.*, 1744—1748. The application is usually by summons, *Ibid.*, 1744. For forms of order, see 1 Seton, 74, Nos. 4, 5. The directions to be acted on in the Pay Office will be contained in a lodgment schedule to the order. As to a transfer by order, see S. C. Funds Rules, 1884, r. 30. As to returning direction to the Paymaster, *Ibid.*, 37. As to filing the certificate of lodgment, *Ibid.*, 38; and see note (*i*), *supra*.

(*e*) See S. C. Funds Rules, 1884, r. 30.

(*f*) *Ibid.*, r. 20.

(*g*) *Ibid.*, rr. 42, 69; and note (*i*), *supra*.

1734

Notice of motion or summons for deposit in Court of Exchequer bills (*h*).

Formal parts: as in Form 38, *or* 43 *or* 1077.

Proceed as in Form 1729, *down to* upon him, *and continue thus:* to deposit in Court to the credit of (*&c.: as in* Form 1729) the following Exchequer Bills, amounting in the whole to £——, and admitted by him to be in his hands and to be part of the estate of the testator C. D. [*or as may be*], that is to say, No. —— for £——, dated ——, No. —— for £——, dated ——, and, *&c.*, or any other bills for which the same may be exchanged.

1735.

Notice of motion or summons for deposit in Court of securities passing by delivery, other than Exchequer bills (*i*).

Formal parts: see Form 38, *or* 43 *or* 1077.

Proceed as in Form 1729, *down to* upon him, *and continue thus:* to deposit in Court to the credit of (*&c.: as in* Form 1729) the (*Here describe the securities to be deposited by reference to a schedule: specifying in the body of the application the total amount of such securities* (*j*), *as thus:* 10 Chilian bonds, amounting together to £——, and 5 Brazilian bonds, amounting together to £——, with the coupons thereto attached and respectively specified in the schedule hereto. And that any principal money to be received in respect of any such securities may be invested in consolidated £3 per cent. annuities; and that the dividends to accrue on such securities may be from time to time invested in like annuities (*k*).

Schedule.

Description of Securities.	Dates.	Numbers.	Amounts.	Coupons attached.
Chilian 5 per cent. bonds.	8 July, 1875	1,000—1,019	£100 each.	For dividends payable half-yearly from the —— of ——, 1884, to the —— of ——, 1900.
Brazilian bonds.	&c.	&c.	&c.	&c.

(*h*) For form of order, see 1 Seton, 74, No. 7; and with a schedule, *Ibid.*, No. 8. As to the purchase of new Exchequer bills or Exchequer bonds with any principal or interest monies to be received in respect of bills or bonds deposited in Court, see S. C. Funds Rules, 1884, r. 70; as to renewal of Exchequer bills, &c., *Ibid.*, 71

(*i*) As to the securities which may be deposited in Court, see note (*d*) to Form 1733. For form of order, see 1 Seton, 75, No. 9.

(*j*) Care must be taken to describe the securities by the description under which they are known at the Pay Office: adding the amounts, dates, and numbers, if any; and if there are coupons attached, they ought to be mentioned: 1 Seton, 84. The descriptions ought to be taken from the securities themselves, and if there are several securities of different descriptions, the total amount of each description should be stated, *Ibid.*

(*k*) See S. C. Funds Rules, 1884, rr. 42, 69.

1736.
Notice of motion or summons for the deposit in Court and transfer of securities passing by deed (*l*).

Formal parts: see Form 38, *or* 43 *or* 1077.

Proceed as in Form 1729, *down to* upon him, *and continue thus:* to deposit in Court to the credit of (*&c.: as in* Form 1729) the (*Here describe the securities to be deposited by reference to a schedule: specifying in the body of the application the total amount of such securities, as thus:* three bonds of the B. Company, amounting together to £600, and two debentures of the C. Company, amounting together to £100, respectively specified in the schedule hereto, and within the same period to execute and procure to be registered a transfer of such securities to the Chancery Pay Office account. And that any principal money (*Conclude as in* Form 1735).

Schedule.—*See Schedule to* Form 1735, *so far as applicable.*

1737.
Deed for transferring into Court securities passing by deed (*m*).

I, A. B., of (*address and description*), in pursuance of an order dated the —— day of ——, 188—, and made in a cause of B. *v.* D. [*or*, in a matter of ——], 188—, B. No. ——, do hereby assign and transfer to the account of Her Majesty's Paymaster-General, for and on behalf of the Supreme Court of Judicature (*Insert in words amount and description of stock*), of and in the undertaking called the (*Insert the title of the Company*), directed to be transferred into Court, to the credit of the said cause [*or*, matter], subject to the several conditions on which the same were held immediately before the execution hereof. And I, X. Y., Assistant Paymaster-General for Supreme Court business, on behalf of the Paymaster-General hereby agree to accept and take the said (*Insert title of stock*), subject to the conditions aforesaid.

As witness our hands and seals this —— (*n*) day of ——, in the year of our Lord one thousand eight hundred and eighty ——.

A. B. L.S.

Signed, sealed, and delivered by the above-named A. B. in the presence of C. D., of, *&c.*

X. Y. L.S.

Signed, sealed, and delivered by the above-named X. Y. in the presence of E. F., of, *&c.*

1738.
Notice of motion or summons for the deposit in Court of such effects as must be placed in a box (*o*).
[Dan. Pr. 1752.]

Formal parts: see Form 38, *or* 43 *or* 1077.

Proceed as in Form 1729, *down to* upon him, *and continue thus:* to place in a box, in the presence of the solicitors for the plaintiff, the certificates and other documents of title of the 50 shares in the B. Society, in the statement of claim mentioned [*or*, the several articles of

(*l*) For form of order, see 1 Seton, 75, No. 10.

(*m*) This form must be used on transferring into Court securities passing by deed. The form is procurable at the Pay Office.

(*n*) Insert day of the month in words.

(*o*) As to what securities may be deposited directly in Court, and what must be

plate—*or*, the several articles of jewellery—*or as may be*—specified in the schedule hereto]. And that such box may be indorsed "In the High Court of Justice, Chancery Division, B. *v.* D., 1876. B. 100. Securities" [*or as may be*]. And that the said defendant C. D. may be ordered within the time aforesaid to deposit such box in Court to the credit of (*&c.: as in* Form 1729).

If required, add: And that such box may be ordered to be delivered out within fifteen days after the 1st of January, 188—, and the 1st of July, 188— [*or as may be* (*p*)], and after the same days in each succeeding year, to the defendant C. D., for the purpose of receiving the dividends on such securities. And that the said securities may be ordered to be replaced in such box in the presence of the solicitors for the plaintiff. And that the defendant C. D. may be ordered, on or before the 20th of January, 188—, and the 20th of July, 188— [*or as may be*], and the same days in each succeeding year to re-deposit such box in Court to the same credit. And that the defendant C. D. may be ordered to receive such dividends, and on or before the 20th of January, 188—, and the 20th of July, 188—, and the same days in each succeeding year to pay such dividends into Court to the same credit.

Schedule.

Description of Securities.	Dates.	Numbers.	Amounts.	Coupons attached.

1739.

Summons for lodgment of cash and transfer of securities into Court, with Pay Office Schedule.

Formal parts: see Form 43 *or* 1077.

Proceed as in Form 1729 *down to* upon him, *and continue thus:* to make the payment into Court and the lodgments directed to be made by him as in the schedule hereto.

placed in a box, see note (*d*) to Form 1733. Any securities passing by delivery may, if desired, be placed in a box and then deposited in Court, instead of being directly deposited in Court: 1 Seton, 84. Securities of any company out of the United Kingdom will not be received except in a box, *Ibid.* The Clerks of Records and Writs (now the Masters of the Supreme Court: R. S. C. Ord. LX. 3; LXI. 1) are not to receive into their custody effects of the suitors consisting of jewels or plate, or other articles of a like nature, or negotiable securities: Chancery Funds Amended Orders, 1874, 16. For form of order, see 1 Seton, 75, No. 11.

(*p*) The days in each year on which the dividends on the securities are payable.

Lodgment Schedule (*q*).

In the High Court of Justice,
Chancery Division.
——, 188—.
(*State title and reference to the record.*)
Ledger credit. As above.

Particulars of Funds to be lodged.	Person to make the Lodgment.	Amounts.					
		Money.			Securities.		
		£	*s.*	*d.*	£	*s.*	*d.*
Consols . . .	C. D. (Defendant)				15,000	—	—
Great Western Railway 4 per cent. Debenture Stock.	Do. . .				1,500	—	—
Balance of cash to be certified by chief clerk, and to be invested and accumulated in consols.	J. B.						

1740.

Affidavit in support of application for order for payment in, where founded on an admission or on an account. [Dan. Pr. 1746, 1747.]

Formal parts: see Form 6.

1. I have cast up the several items set forth on the receipt and payment or disbursement sides respectively of the account marked A., left in the Chambers of Mr. Justice —— by the defendant C. D., and verified by his affidavit filed in this action on the —— day of ——, 188—, [*or as may be*].

2. The items on the said receipt sides of the said account [*or as may be*] amount to the sum of £1,000, and no more; and the items on the said payment or disbursement sides thereof [*or as may be*] amount to the sum of £600, and no more.

3. The said £600 being deducted from the said £1,000, there remains a balance or sum of £400: which sum of £400 appears by the said affidavit and account to be due from the said defendant C. D. to the estate of G. H., the testator in the pleadings in this cause named [*or as may be*].

(*q*) See S. C. Funds Rules, 1884, r. 5; App. No. 1; and note (*i*), at p. 742. As to stamping a duplicate of the schedule, and leaving same at the Pay Office, see S. C. Funds Rules, 1884, r. 24. Such copy will be the Paymaster's authority for giving effect to the operations directed therein, *Ibid.*, 25. As to office copies of the schedule, *Ibid.*, 26. As to correction of accidental errors, *Ibid.*, 27.

1741.

Summons to extend time for making payment, transfer or deposit into or in Court (*r*).

Formal parts: see Form 43 *or* 1077.

on the part of the defendant C. D. [*or as may be*], that the time limited by the order dated the —— day of ——, 188—, for the applicant to (*Describe the act required to be done; as thus:* pay the sum of £—— into Court to the credit of this action), may be extended to the —— day of ——, 188—. And that the costs of this application may be costs in the action.

1742.

Affidavit of amount of interest or dividends to be paid into Court (*s*).

Formal parts: see Form 6.

1. The interest on the sum of £—— in the order made in this action, dated the —— day of ——, 188—, mentioned, at the rate of £5 per cent. per annum from the —— day of ——, 188—, to the —— day of ——, 188—, the day for payment in of the said sum pursuant to the said order:

Or, The dividends on the £1,000 consolidated £3 per cent. annuities [*or as may be; as in order*] in the order made in this action, dated the —— day of ——, 188—, mentioned, which were due at the date of the said order:

and which interest [*or*, dividends—*or*, which sum and interest] pursuant to the said order is [*or*, are] to be paid into Court to the credit of [*&c.; as in order*], amounts [*or*, amount] to the sum of £——, and no more, after deducting the sum of £—— for income tax (*t*).

1743.

Statutory declaration in like case (*s*).

(*Title and reference to the record.*)

I, A. B., of (*residence and description or addition*), do solemnly and sincerely declare that (*Set forth the matters declared to; as in* Form 1742). And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the sixth year of the reign of his late Majesty William the Fourth, intituled "An Act to repeal an Act of the present session of Parliament, intituled 'An Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the State, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits,' and to make other provisions for the abolition of unnecessary oaths."

(*r*) For form of order, see 1 Seton, 78, No. 21.
(*s*) See S. C. Funds Rules, 1884, rr. 16, 96.
(*t*) *Ibid.*, 17. For the rate of income-tax, see note (*c*) to Form 1329.

1744. Declarat thereto.

To the declarant: Is that your name and handwriting?

You do solemnly and sincerely declare that the contents of this your declaration are true?

Declared at (*State where*) this —— day of ——, 188—, } A. B.

before me,

C. D.

(*Add style of office.*)

1745. Notice of payment, transfer or deposit into or in Court (*u*). [Dan. Pr. 1753, 1754.]

Formal parts: see Form 37.

Take notice that the defendant A. B. [*or*, A. B., of ——] has paid into [*or*, transferred into—*or*, deposited in] Court to the credit of (*State the title of the action or matter, and separate account, if any*), the sum of £—— cash [*or, describe the securities transferred or deposited*], and that such sum [*or, describe the securities*] represents (*State what the money or securities represent, as thus:* the balance admitted by his affidavit filed the —— day of ——, 188—, to be in his hands on account of the personal estate of the testator in this cause); and that such payment [*or*, transfer—*or*, deposit] has been made [*State for what purpose it was made, as thus:* for the purpose of discharging himself thereof—*or*, pursuant to the order dated the —— day of ——, 188—].

Section III.—Placing on Deposit and Investing Money in Court (*v*).

(*Dan. Pr.*, pp. 1758—1771.)

(*v*) *Placing money on deposit and investment.—Summary of Material Provisions of S. C. Funds Rules*, 1884.

A. *Placing on deposit.*

Money to be placed on deposit.—All money to be lodged in Court in the Chancery Division will be placed on deposit without a request. But money arising by sale, conversion, or payment off of securities will only be placed on deposit upon request . . . . . R. 76.

(*u*) This notice is necessary in two cases: (1) where a person has made a lodgment in Court, upon request without an order, under S. C. Funds Rules, 1884, r. 30: Chancery Funds Amended Orders, 1874, r. 4; and in this case the notice must state what the money or securities so paid, transferred, or deposited, represent, and for what purpose the payment, transfer, or deposit has been made, *Ibid.*; (2) where a person directed by order to make a lodgment in Court, makes such lodgment under S. C. Funds Rules, 1884, r. 36, before the order is served, or after the expiration of the time thereby limited for making such lodgment: Chancery Funds Amended Orders, 1874, r. 4. As to the persons to whom the notice is to be given, see *Ibid.* The notice may be sent by post, *Ibid.*

Except in certain cases.—Money will not be placed on deposit:—

(*b*). When lodged under the Standing Orders pursuant to 9 & 10 Vict. c. 20, or any Act amending the same:

(*c*). If lodged prior to commencement of Chancery Funds Act, 1872 (7th Jan. 1873), pursuant to the Copyhold Acts, or s. 69 of the Lands Clauses Consolidation Act, 1845:

(*d*). When the amount is less than £10:

(*e*). When a payment schedule dealing with the money otherwise than by directing it to be placed on deposit has been left at the Pay Office: R. 77.

(*f*). When a request that the money shall not be placed on deposit, signed by a solicitor acting for a person claiming to be entitled to or interested in the money, is left at the Pay Office. The person making such request may withdraw it, and request that the money may be placed on deposit.

Withdrawal from deposit.—Money will be withdrawn from deposit:—

(*a*). When an order directs it to be dealt with to such an amount as may be sufficient to comply therewith: ,, 78.

(*b*). When the amount is reduced below £10:

(*c*). Upon a request signed by a solicitor on behalf of a person interested, and countersigned by a Chief Clerk or Registrar, notifying that the money is about to be dealt with by an order.

Time for placing on deposit: interest on deposits, &c.—See as to these . . . . . ,, 79—85.

B. *Investments.*

Account to which investments are to be credited.—Upon an investment of money in Court the securities purchased will be placed to the ledger credit to which the money invested stood. . . . . ,, 54.

Investment of accruing dividends under an order.—When an order directs investment and accumulation of dividends accruing on securities in Court, or directed to be purchased with money in Court, or to be lodged in Court, the Paymaster, upon receipt of the copy of such order, will, without request (until request or order to the contrary) from time to time invest such dividends, if amounting to at least £40 half yearly, with all accumulations thereon in the securities mentioned in the order directing investment . . . . . ,, 69.

Purchase of exchequer bills.—When money in Court is invested in exchequer bills or exchequer bonds, any principal or interest money to be received in respect thereof will be invested in exchequer bills or bonds to the same credit. (As to renewal of exchequer bills, &c., see r. 71) . . . . . ,, 70.

Limit of amount to be invested.—A sum of money in Court less than £40 will not be invested, unless in cases mentioned in rr. 73, 74 (*infra*), and unless an order directs such investment notwithstanding the smallness of the amount. This rule extends to investment of dividends on securities in Court which are directed to be invested: such dividends when amounting to less than £40 half yearly and not less than £10 will be placed on deposit . ,, 72.

Investment of money lodged under Legacy Duty Act.—A sum of money amounting to at least £40 lodged in Court under the above Act will, upon request, be invested in

Government securities; and the dividends in respect thereof, when they amount to £10, will be invested in like securities . . . . . R. 73.

Investment of money lodged under Trustee Relief Act.—When it is stated in the schedule to the affidavit that it is desired that any money to be lodged in Court, or the dividends accruing on any securities to be lodged, under 10 & 11 Vict. c. 96, shall be invested in Government securities, the Paymaster will invest the same, so soon as such money shall amount to £40, or the dividends to £10 . . . . . ,, 74.

Investment stayed or discontinued on request.—Upon request signed by a solicitor on behalf of a person interested in securities in Court the Paymaster may cease to invest any dividends or interest accruing on such securities . ,, 75.

1746.

Request to place money on deposit (*w*). [Dan. Pr. 1759.]

Ledger credit to which the money herein referred to is standing, } ——.

To the Assistant Paymaster-General.

(*Date*) ——, 188—.

I request that the sum of £—— cash standing to the above ledger credit in the books of the Pay Office may be placed on deposit.

(*Name and address of solicitor or party.*)

1747.

Request not to place money on deposit (*x*). [Dan. Pr. 1760.]

Ledger credit to which the money herein referred to is standing, } ——.

To the Assistant Paymaster-General.

(*Date*) ——, 188—.

On behalf of a person entitled to or interested in the sum of £—— lodged in Court for the above ledger credit, I request that the said sum may not be placed on deposit.

(*Name and address of solicitor.*)

1748.

Withdrawal of request not to place money on deposit, and request to place same on deposit (*y*). [Dan. Pr. 1760.]

Ledger credit to which the money herein referred to is standing, } ——.

To the Assistant Paymaster-General.

(*Date*) ——, 188—.

On behalf of a person claiming to be entitled to or interested in the sum of £—— lodged in Court for the above ledger credit, I withdraw my request that the said sum of £—— may not be placed on deposit, and request that the same may be placed on deposit.

(*Name and address of solicitor.*)

(*w*) As to when a request is necessary, see S. C. Funds Rules, 1884, r. 76; and note (*v*), *supra*.

(*x*) See S. C. Funds Rules, 1884, r. 77 (*f*); and note (*v*), *supra*.

(*y*) *Ibid.*

1749.

Request to withdraw money from deposit (*z*).

Ledger credit to which the money herein referred to is standing, } ——.

To the Assistant Paymaster-General.

(*Date*) ——, 188—.

On behalf of a person interested in the money on deposit standing to the above ledger credit in the books of the Pay Office, I notify that the said money is about to be dealt with by an order, and I request that it may be withdrawn from deposit.

(*Signature and address of solicitor.*)

(*Counter signature* (*a*).)

1750.

Notice of motion or summons for the investment in stock, of cash or money on deposit (*b*). [Dan. Pr. 1764.]

Formal parts: see Form 38, *or* 43 or 1077.

on the part of (*State whom*), that the £—— cash [*or*, money on deposit] in Court to the credit of this action (*Title of action or matter, and account*)

Where the application is to invest money on deposit, add: and any interest to be credited in respect of the said money on deposit (*c*),

may

If the sum to be invested is less than £40 (*d*), *add:* notwithstanding the smallness of the amount,

be invested in consolidated £3 per cent. annuities [*or as may be*].

If it is desired to have the dividends invested, add: And that the dividends as they accrue on such annuities may be from time to time invested in like annuities (*e*).

1751.

The like, for investment in railway stock (*f*).

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of (*State whom*), that out of the £—— cash [*or*, money on deposit] in Court to the credit of (*Title of ledger credit*), the sum of £——, or so much thereof as may be practicable, may be invested in Great Eastern Railway £4 per cent. debenture stock [*or as may be*]. And that the residue (if any) of the said £—— may be (again) placed on deposit.

(*z*) See S. C. Funds Rules, 1884, r. 78 (*c*); and note (*c*), *supra*.

(*a*) This request must be countersigned by a Chief Clerk or Registrar.

(*b*) Except in the case where money is lodged in Court under the Legacy Duty Act (36 Geo. III. c. 52, s. 32); or under the Trustee Relief Act (10 & 11 Vict. c. 96), it will not be invested in securities without an order: see S. C. Funds Rules, 1884, rr. 45, 73, 74. As to the securities in which cash under the control of the Court may be invested, see R. S. C. Ord. XXII. 17; Dan. Pr. 1764—1767. For forms of order to invest, see 1 Seton, 76, 77, Nos. 12—16. The directions for investment will be contained in a payment schedule to the order.

(*c*) As to the application of interest on money placed on deposit after the date of an order for investment, see S. C. Funds Rules, 1884, rr. 59, 60.

(*d*) See S. C. Funds Rules, 1884, r. 72; and note (*v*), *supra*.

(*e*) Dividends received will be carried to the same credit as the securities: S. C. Funds Rules, 1884, r. 42.

(*f*) For form of order, see 1 Seton, 77, No. 16.

1752.
Request for certificate of investment (*g*). [Dan. Pr. 1767.]

To the Assistant Paymaster-General.

—— day of ——, 188—.

A certificate of investment, on the —— day of ——, of £—— in (*State the securities in which the investment was made*), to the credit of (*State the title of ledger credit*), is requested for the use of (*State for what purpose the certificate is required*).

(*Name and address of solicitor.*)

1753.
Request to discontinue investment of dividends (*h*). [Dan. Pr. 1771.]

Ledger credit to which the funds herein referred to are standing } ——.

To the Assistant Paymaster-General.

(*Date*) ——, 188—.

On behalf of a person claiming to be entitled to or interested in £—— standing to the above ledger credit in the books of the Pay Office, I request that the dividends or interest accruing thereon may not be invested or placed on deposit.

(*Name and address of solicitor.*)

Section IV.—Carrying over Money and Securities in Court (*i*).

(*Dan. Pr.*, pp. 1771—1774.)

(*i*) *Carrying over.—Summary of Material Provisions of S. C. Funds Rules*, 1884.

Payment schedule.—Every order directing funds to be carried over to any other ledger credit than that to which the same are standing must have a payment schedule in the prescribed form (App. No. 2). Such schedule must set out in a tabular form (*inter alia*), the title of the ledger credit or separate account to which any funds are to be carried over . . . . . R. 6.

When a separate account is opened.—When funds are directed to be carried over to a separate account, the title of the ledger credit to be opened must, unless otherwise directed, commence with the title of the cause or matter to which such funds are standing . . . . . ,, 7.

Funds to be dealt with by order.—In general funds will not be carried over unless in pursuance of an order . . . . . ,, 45.

Paymaster to give effect to orders.—Carrying over of funds in pursuance of an order will be made by the Paymaster upon receipt of the necessary authority and information . . . ,, 47.

Application of dividends.—When securities are directed to be carried over, dividends accruing thereon subsequently to the date of the order, or to the time when the amount of such securities is ascertained, will be carried over to the ledger credit to which the securities are to be carried over, unless

(*g*) See S. C. Funds Rules, 1884, r. 100. As to the fee payable on a request, see note (*c*), at p. 741.

(*h*) See S. C. Funds Rules, 1884, r. 75 ; and note (*v*), *supra*.

otherwise directed. When securities are to be realised, and the whole of the proceeds carried over in one sum or in aliquot parts, any dividends thereon subsequent to the order or to the time when the amount of such securities is ascertained, will be added to the proceeds and applied in like manner therewith . R. 55.

When dividends have been invested.—In such case the securities will be carried over to the ledger credit to which the dividends would if uninvested have been carried . . . . . ,, 56.

As to carrying over securities and cash, see 1 Seton, 92—95.

1754.

Notice of motion or summons to carry over securities, money on deposit, cash, dividends and interest (*j*). [Dan. Pr. 1771, 1772.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of (*State whom*), that the (*Describe the funds; as thus:* £300 reduced £3 per cent. annuities, £100 money on deposit, and £30 cash, in Court to the credit of this action, B. *v.* D., 1875, B. 100, and any dividends to accrue on the said annuities, and any interest to be credited in respect of the said money on deposit), may respectively be carried over to the credit of this action, B. *v.* D., 1875, B. 100, to an account to be intituled "The account of," *&c.* (*If subject to duty, add:* "subject to legacy [*or*, succession] duty)."

1755.

Notice of motion or summons to carry over specific amounts of securities, and proportionate parts of dividends (*k*). [Dan. Pr. 1771, 1772.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of (*State whom*), that the £3,000 consolidated £3 per cent. annuities [*or as may be*] in Court to the credit of this action, B. *v.* D., 1876, B. 100, and any dividends to accrue on the said annuities may be carried over to the credit of this cause, B. *v.* D., 1876, B. 100, to the accounts mentioned in the first column of the schedule hereto, in the amounts and proportions in the second and third columns of the said schedule set opposite to the respective titles of such accounts.

(*j*) Funds in Court may not be carried over, except in pursuance of an order: S. C. Funds Rules, 1884, r. 45; and note (*i*), *supra*. It is not often that an application is made for a carrying over simply; a carrying over is generally directed at the original hearing, or on further consideration; or else is coupled with an application for investment, or for payment of dividends, or both. The forms in this section will, therefore, generally be combined with some of the other forms in this chapter. For forms of direction to carry over, see 1 Seton, 92—94, Nos. 1—6. The directions for carrying over will be contained in a payment schedule to the order to be made on the application in each case: S. C. Funds Rules, 1884, r. 6; and note (*i*), *supra*.

(*k*) For form of order, see 1 Seton, 93, No. 2. For order for payment of the dividends to several persons for their lives of funds when carried over, see *Ibid.*, 91, No. 16; and Form 1767.

Schedule.

1. Titles of accounts to which carryings over are to be made.	2. Amounts of consolidated annuities to be carried over.	3. Proportionate parts of dividends to be carried over.
The account of A., an infant . .	£300	One-tenth.
The account of B. and his incumbrancers.	£600	One-fifth.
&c.	*&c.*	*&c.*

1756.

Notice of motion or summons to carry over specific amounts of securities, parts of a larger sum (*l*). [Dan. Pr. 1771, 1772.]

Formal parts : see Form 38, *or* 43 *or* 1077.

on the part of (*State whom*), that out of the £4,000 reduced £3 per cent. annuities [*or as may be*] in Court to the credit of this action, B. *v.* D., 1876, B. 100, the several amounts of like annuities mentioned in the second column of the schedule hereto, making together £900 like annuities, may be carried over to the credit of this action, B. *v.* D., 1876, B. 100, to the accounts set opposite to such several amounts in the first column of the said schedule.

Schedule.

1. Titles of accounts to which carryings over are to be made.	2. Amounts of reduced annuities to be carried over.
The account of A., an infant	£200
The account of B. and his incumbrancers	£300
The account of the settled share of J. J.	£400
	£900

1757.

Notice of motion or summons to carry over securities of a given value (*m*). [Dan. Pr. 1771, 1772.]

Formal parts : see Form 38 *or* 43, *or* 1077.

on the part of (*State whom*), that so much of the £1,000 consolidated £3 per cent. annuities in Court to the credit of this action, B. *v.* D., 1875, B. 100, as will, at the bank average price of like annuities on (*State when*), be equivalent to £—— cash (the amount to be verified by affidavit), may be carried over to the credit of this action, B. *v.* D., 1875, B. 100, "The account of," *&c.*

(*l*) For form of order, see 1 Seton, 93, No. 3.
(*m*) *Ibid.*, No. 4.

1758.

Request for certificate of carrying over of fund (*n*). [Dan. Pr. 1774.]

—— day of ——, 188—.

To the Assistant Paymaster-General.

A certificate of the carrying over of funds on the —— day of ——, from the ledger credit (*State the ledger credit to which the fund stood*) to the credit (*State the ledger credit to which the fund was carried over*), is requested for the use of (*State for what purpose the certificate is required*).

(*Name and address of solicitor.*)

Section V.—Payment, Transfer, and Delivery of Money and Securities out of Court.

(*Dan. Pr.*, pp. 1775—1800, ccccxv., ccccxvi.)

(1.) *Payment of Dividends and Interest* (*o*).

(*o*) *Payment of Dividends.—Summary of Material Provisions of S. C. Funds Rules*, 1884.

Dividends: how to be stated in payment schedule.—When an order directs payment of dividends, annuities, or other periodical payments, there must be stated in the Payment Schedule (except in case of dividends directed to be paid as they accrue due), the time when the first and all subsequent periodical payments are to be made . . . . . R. 19.

Payments by post.—Any person residing within the United Kingdom entitled, under an order, to any dividend, annuity, or other periodical payment, may obtain a remittance of the same by post, by sending to the Paymaster a request in the prescribed form (App. No. 12), attested by two witnesses: one of whom must be a justice of the peace, a commissioner to administer oaths, a clerk in holy orders, or a notary. Upon receipt of such request, a direction will be sent by the Paymaster by post to the address specified; such direction must be crossed, so as to be payable only through a bank . . . . . ,, 48.

Dividends on securities transferred.—When securities in Court are directed to be transferred, delivered out, or carried over, dividends accruing subsequently to the date of the order, or to the time when the amount of the securities is ascertained, will be paid to the persons to whom, or carried over to the ledger credit to which, the securities are to be transferred, delivered, or carried over. When securities are directed to be realised, and the whole of the proceeds paid out or carried over in one sum, or in aliquot parts, any dividends accruing subsequent to the date of the order, or to the time when the amount of the securities is ascertained, will be added to such proceeds, and applied in like manner . . . . . ,, 55.

When such dividends have been invested.—In such case, the securities purchased will be transferred or delivered, and any dividends accrued thereon paid, to the persons to whom, or carried over to the ledger credit to which, the dividends if uninvested would have been paid or carried over . . . ,, 56.

When dividends otherwise applicable have been invested.—In such case, the securities purchased will be sold, and the proceeds of such sale, and any dividends accrued in respect of such

(*n*) See S. C. Funds Rules, 1884, r. 100. As to the fee payable on the request, see note (*c*), at p. 741.

securities, will be applied in the same manner as the dividends so invested would have been applied under the order directing them to be dealt with . . . . . R. 57.

Dividends on residue.—When under any order dividends on securities in Court are directed to be dealt with, and a subsequent order deals with part of such securities, the dividends on the residue will, unless otherwise ordered, continue to be dealt with in the same manner as the dividends were directed to be dealt with by the prior order . . . . . ,, 58.

Application of dividends placed on deposit after date of order dealing therewith.—In such case, the dividends, when withdrawn from deposit, will be applied in the same manner as they would have been applied if not so placed on deposit . . . . ,, 59.

Deduction of income tax.—In acting on orders directing periodical payments to be made, the Paymaster will draw only for so much of the sum directed to be paid as remains after deducting income tax, except where such sums are directed to be paid without such deduction . . . . . ,, 68.

Evidence of life, &c.—Where the Paymaster requires evidence of life or of the fulfilment of any conditions affecting dividends or other periodical payments, such evidence may be furnished by a declaration signed by a solicitor acting on behalf of the person entitled, or by a declaration signed by the person entitled, and attested by a justice of the peace, commissioner to administer oaths, clerk in holy orders, or notary . . . . ,, 95.

As to payment of dividends and interest on funds in Court, see 1 Seton, 88—92.

1759.

Summons for payment of dividends to tenant for life (*p*). [Dan. Pr. 1776.]

Formal parts: see Form 43 *or* 1077.

on the part of (*State whom*), that the dividends as they accrue due, during the life of A. B., on the (*Describe the fund as in the Paymaster's certificate; as thus:* £—— consolidated £3 per cent. annuities in Court to the credit of this action, B. *v.* D., 1876, B. 100, "The account of," *&c.*), may be paid to the said A. B. [*or as may be*] until further order.

1760.

Summons for payment of interest to tenant for life (*q*). [Dan. Pr. 1776.]

Formal parts: see Form 43 *or* 1077.

on the part of (*State whom*), that any interest as it accrues and is credited, during the life of A. B., in respect of the £—— money on deposit [*or as may be*] in Court to the credit of this action, B. *v.* D., 188—, B. 100, "The account of," *&c.*, may be paid to the said A. B. [*or as may be*] until further order.

(*p*) Applications for payment of dividends on funds in Court are, as a rule, made by summons: R. S. C. Ord. LV. 2 (3). As to the persons to be served, see Dan. Pr. 1776. As to the evidence in support, *Ibid.*, 1777. As to the papers to be left with the Registrar on drawing up the order, *Ibid.*, 1788. For forms of orders for the payment out of dividends or interest on a fund in Court, see 1 Seton, 88—91, Nos. 1—18. For form of order for payment to tenant for life, *Ibid.*, 88, No. 1. The directions for payment of dividends will be contained in a payment schedule to the order to be made in each case: S. C. Funds Rules, 1884, rr. 6, 19; and note (*o*), *supra*.

(*q*) For form of order, see 1 Seton, 91, No. 18.

1761.

Summons for payment of dividends or interest to married woman for separate use (*r*).

Formal parts: see Form 43 *or* 1077.

on the part of (*State whom*), that the dividends, as they accrue due [*or*, that the interest as it accrues and is credited], during the life of C. B., the wife of A. B., on the (*Describe the fund: see* Forms 1759, 1760), may be paid to the said C. B., for her separate use, until further order.

1762.

Summons for payment of dividends or interest to two persons and the survivor (*s*).

[Dan. Pr. 1781.]

Formal parts: see Form 43 *or* 1077.

Proceed as in Form 1759 *or* 1760, *to* paid, *and continue thus:* to A. B., and C., during their joint lives, or until further order; and that on the death of either of them, such dividends [*or*, interest] may be paid to the survivor during his [*or*, her] life, or until further order.

1763.

The like to the trustees of a settlement or will (*t*).

[Dan. Pr. 1781.]

Formal parts: see Form 43 *or* 1077.

Proceed as in Form 1759 *or* 1760, *to* paid, *and continue thus:* to A. B., C. D., and E. F., as trustees of the indenture of settlement, dated, *&c.* [*or*, of the will of, *&c.*], upon the trusts of the said indenture [*or*, will], until further order.

1764.

The like to the trustees of a charity (*u*).

[Dan. Pr. 1781.]

Formal parts: see Form 43 *or* 1077.

Proceed as in Form 1759 *or* 1760, *to* paid, *and continue thus:* to A. B., C. D., *&c.*, as trustees of the —— Charity, or any two of them, or to the trustees of the said —— Charity for the time being, or any two of them, until further order.

1765.

The like to a corporation sole (*v*).

[Dan. Pr. 1781.]

Formal parts: see Form 43 *or* 1077.

Proceed as in Form 1759 *or* 1760, *to* paid, *and continue thus:* to A. B., as rector of the parish of ——, and to his successor, the rector of the said parish for the time being, until further order.

(*r*) When funds in Court are ordered to be paid to a woman not married at the date of the order, who subsequently marries, upon an affidavit of such woman and her husband of no settlement, or if there has been a settlement, then upon an affidavit identifying such settlement, and an affidavit of the solicitor of perusal of the settlement, and that the funds are not affected thereby, such funds may be paid to such woman without the intervention or concurrence of her husband: S. C. Funds Rules, 1884, r. 61. For form of affidavit of no settlement, or of a settlement not affecting the fund, see Forms 1801, 1802. For form of order, see 1 Seton, 89, No. 7.

(*s*) For forms of order, see 1 Seton, 90, Nos. 10, 11; and *Ibid.*, 92.

(*t*) For form of order, see 1 Seton, 88, No. 2. As to the necessity to state in the payment schedule that the persons to whom payment is to be made are trustees, or are entitled otherwise than in their own right or for their own use, see S. C. Funds Rules, 1884, r. 21.

(*u*) For form of order, see 1 Seton, 89, No. 3.

(*v*) *Ibid.*, No. 4.

1766. The like to the officer of a corporation aggregate (*w*). [Dan. Pr. 1783.]

Formal parts: see Form 43 *or* 1077.

Proceed as in Form 1759 *or* 1760, *to* paid, *and continue thus:* to A. B., as the treasurer of the (*Insert style or title of the corporation*), and to the treasurer for the time being of the said (*corporation*), until further order.

1767. Summons to carry over specific amounts of securities to separate accounts, and for payment of dividends to persons named in schedule for their lives (*x*).

Formal parts: see Form 43 *or* 1077.

Proceed as in Form 1756, *to* first column of the said schedule, *and continue thus:* and that the dividends as they accrue on the amounts so to be carried over may be paid to the persons whose names are, in the third column of the said schedule, set opposite to such amounts respectively during the lives of such persons respectively, or until further order.

Schedule.

1. Titles of accounts.	2. Amounts of consolidated annuities to be carried over.	3. Payees of dividends.
The settled share of A., the wife of C. B.	£ 500	A., the wife of C. B., for her separate use.
The account of A. B. and his incumbrancers	£1000	C. F.
The settled share of J. J.	£ 500	J. J.
	£2000	

1768. Summons for quarterly payments out of dividends (*y*).

Formal parts: see Form 43 *or* 1077.

on the part of (*State whom*), that out of the dividends as they accrue due on the (*Describe the fund in Court from the Paymaster's certificate: see* Form 1759), the sum of £—— a year, without deducting income-tax (*z*), may be paid to A. B. during his life, or until further order, by equal quarterly payments on the —— day of ——, the —— day of ——, the —— day of ——, and the —— day of ——, in every year; the first of such payments to be made on the —— day of ——, 188— (*a*).

(*w*) 1 Seton, 89, No. 6. The application should be in this form where the corporation has a treasurer or other financial officer, to whom the money is properly payable; but the application may be for payment to the corporation, and will then be received under a power of attorney under the seal of the corporation: 1 Seton, 92. For form of order for payment to a corporation aggregate, see *Ibid.*, 89, No. 5

(*x*) For form of order, see 1 Seton, 91, No. 16; and Form 1756.

(*y*) *Ibid.*, No. 17.

(*z*) See S. C. Funds Rules, 1884, r. 68; and note (*o*), *supra*.

(*a*) *Ibid.*, r. 19; and note (*o*), *supra*.

1769.

Request for power of attorney to receive dividends (*b*). [Dan. Pr. 1784.]

To the Assistant Paymaster-General.

A power of attorney is requested from A. B., of (*address and description*), the person named or referred to in an order of the Court dated the ——, 188— (*If so:* and in a certificate dated the ——, 188—, and an affidavit of X. Y., filed the ——, 188—), to E. F., of (*address and description*),

If there are several grantees, add: and C. D., of (*address and description*), jointly and severally,

who is [*or*, are] well known to me, to receive the dividends as they accrue during the life of the said A. B. [*or as may be*] on the (*Here insert the description and amount of the securities on which the dividends are to be received; as thus:* £5,000 consolidated £3 per cent. annuities] in Court on the credit of (*Short title of action or matter and account, if any, in which the fund stands in the books at the Pay Office*).

Dated —— day of ——, 188—.

B. W. S.

[*Or*, B. W. S. for S. & C. (*b*)].

1770.

Request of payee to pay money to his attorney.

To the Assistant Paymaster-General.

Be pleased to pay to Mr. E. F., by virtue of my letter of attorney granted to him, the half-yearly payment due to me on the —— day of ——, 188—, out of cash to the credit of (*Short title of action or matter, and account, &c.*).

A. B.

1771.

Certificate of life of payee.

We, the minister and one of the churchwardens of the parish of ——, in the county of ——, do hereby certify, that the above-named A. B. was living on the —— day of ——, 188—.

N. M., Minister.

P. R., Churchwarden.

(*b*) If the person entitled to receive principal money, or interest or dividends, under an order, is unable to attend at the Chancery Pay Office to receive the cheque for the amount due to him, and the case is not within r. 48 of the S. C. Funds Rules, 1884 (see note (*i*), *post*), he must authorise some one to act for him by a special power of attorney. This power of attorney is prepared in the Pay Office. For the purpose of obtaining it, a written request must be signed by the solicitor himself bespeaking the power, or, if it is bespoken by a firm of solicitors, the request must be signed by one of the firm with his own name on behalf of the firm, and must be left at the Pay Office, together with any certificate or affidavit material to be produced. The Paymaster will then prepare the power of attorney. The power when issued from the Pay Office has annexed to it instructions as to the mode of execution thereof, and also a form of affidavit of due execution thereof. For preparing the power a fee is payable of 3*s.*: by a stamp impressed on the power: Ord. as to S. C. Fees, 1884, Sched. No. 109; Ord. as to Fees, &c., July, 1884, p. 11. As to the stamp duty on powers of attorney, see the Stamp Act, 1870 (33 & 34 Vict. c. 97), Sched., Letter or Power of Attorney: Dan. Pr. 1794, note (*n*).

1772. The like, where he is abroad.

I, (*the Notary, Consul-General, Ambassador, or Secretary of Embassy: as may be most convenient to the party abroad*), do hereby certify, that the above-written A. B. came before me on the —— day of ——, 188—, and signed the above order in my presence; of which act, evidence being required, I hereby certify the same under my hand and seal of office.

Done at ——, the —— day of ——, 188—.

1773. Affidavit of life of payee.

(*Short title of action or matter on which the fund is standing, and reference to record.*)

I, A. B., of (*residence and addition*), make oath and say, that C. D. of (*residence and addition*), the person named in an order in this action [*or*, matter], dated the —— day of ——, 188—, was alive on the —— day of ——, 188—, and is, as I verily believe, still living.

A. B.

1774. Statutory declaration of life of payee.

Formal parts: see Form 1743.

that C. D., the person named in an order made in an action [*or*, *matter*] of (*State short title of the cause or matter, and reference to record*), and dated the —— day of ——, 188—, was alive on the —— day of ——, 188—, and is, as I believe, still living.

1775. Declaration by solicitor on behalf of the person entitled to payment (*c*).

Reference (*e*) ——. B. *v.* D. 188—. B. No. ——.

I hereby declare that A. B., of (*Insert postal address*), whose signature is hereto appended, was living on the —— day of ——, 188—.

X. Y.,
Solicitor acting for the person herein named (*d*).

Signature of person named in the above declaration } ——.

1776. Declaration by the person entitled to payment (*f*).

Reference (*e*) ——. B. *v.* D. 188—. B. No. ——.

This is to declare that I, A. B., of (*Insert postal address*), was living on the —— day of ——, 188—.

(*Signature*) ——.

Declared before me this —— day of ——, 188—.

(*Signature and capacity of person attesting* (*g*)) } ——. ——.

(*c*) See S. C. Funds Rules, 1884, r. 95; and note (*o*), *supra*.

(*d*) The declaration must be signed by the solicitor in his own name; the Pay Office will not accept signature in a firm's name. A solicitor empowered to receive payment under a power of attorney must not make the declaration, if payment is to be made to him.

(*e*) This reference must on every occasion be accurately copied.

(*f*) See S. C. Funds Rules, 1884, r. 95; and note (*o*), *supra*.

(*g*) The declaration must be attested by a justice of the peace or a commissioner to administer oaths, or a clerk in holy orders, or a notary public.

1777.

Request for periodical remittance of dividends, &c., by post (*h*).

(*Postal address*) ——.

To the Assistant Paymaster-General,
Royal Courts of Justice, London.

(*Date*) ——, 188—.

Reference to Order of Court (stating the Division, year, letter, and No., and the date of the Order) (*i*). } Chancery Division. 188—. B. No. ——. Order dated ——, 188—.

Precise title of ledger credit of cause or matter in the Pay Office books (*i*). } ——.

I, the undersigned, declare that I am the person to whom (*Insert amount and particulars of periodical payment authorized*) is directed to be paid by the above-cited order of the High Court of Justice; and I request the Paymaster-General to transmit to me by post to the above address, from time to time, a direction or other authority to enable me to obtain payment of the same, as it becomes due (upon the receipt by him of the necessary evidence of life, &c.).

(*Signature*) ——.

We certify that the person who has signed this request is known to us, and is the person to whom the payment therein mentioned is directed to be made by the above-mentioned order (*j*).

(*Signatures and addresses*) ——. ——.

(2.) *Payment of Capital Money, and Sale, Transfer and Delivery of Securities out of Court* (*k*)

(*Dan. Pr.*, pp. 1775—1800, ccccxv., ccccxvi.)

(*k*) *Payment out of Court, &c.—Summary of Material Provisions of S. C. Funds Rules*, 1884.

Payment schedule.—Every order which directs funds in Court to be paid, sold, transferred, or delivered to any person, must have annexed thereto a Payment Schedule, which must be headed with the title of the cause or matter, the date of the order, and the ledger credit to which the funds dealt with are

(*h*) See S. C. Funds Rules, 1884, r. 48; and note (*o*), *supra*.

(*i*) Remittances by post may be obtained in all cases of authorised periodical payments of annuities, dividends, &c., and in the case of other payments which do not exceed 500*l.*; but it will not be possible to comply with any request for a remittance in which the particulars required to be inserted at the head of this form are not fully and accurately stated: these particulars, if not otherwise known, can be obtained from the solicitor by whom information has been given of the amount payable: note to Official Form.

(*j*) This certificate must be signed by two persons; one of such persons must be a justice of the peace, or a commissioner to administer oaths, or a clerk in holy orders, or a notary public, and should state the capacity in which he signs.

standing. It must contain, as part of the heading, a statement of the funds with which the Paymaster is to deal: describing them, if already in Court, as they appear in the Paymaster's certificate, or if not already in Court stating the source from which they are to be derived. It must set out in tabular form:—

(*a*). The name in full of each person to whom a payment, transfer, or delivery out is to be made, unless the name is stated in a Chief Clerk's or Taxing Officer's certificate, or unless it is to be made to trustees or other persons in succession, or to representatives, where no representation has been taken out at the date of the order: R. 6.

(*b*). The title of the ledger credit or separate account to which any funds are to be carried over:

(*c*). The amount of money and the description and amount of securities to be paid out, sold, transferred, or delivered; and where the actual amounts cannot be ascertained at the date of the order, and are not to be subsequently ascertained, the aliquot parts to be dealt with:

(*d*). The nature and necessary particulars of any other dealings with such funds by the Paymaster.

In the body of the schedule short descriptions may be used. The schedule must be in the prescribed form (App. No. 2).

Combined lodgment and payment schedule.—Every order which both directs or authorizes the lodgment of funds and also deals therewith or with any funds already to the same ledger credit, must have annexed thereto a combined lodgment and payment schedule (App. No. 3) . . . . . ,, 8.

Separate schedule for each ledger credit.—When funds standing to separate ledger credits are dealt with by the same order, separate payment schedules must be made out. . . . ,, 9.

Instructions to Paymaster.—Will be contained solely in the schedules . . . . . ,, 10.

Sums to be ascertained by certificate, &c.—When sums are directed to be ascertained by the certificate of a Chief Clerk or Taxing Officer, &c., and to be afterwards dealt with by the Paymaster, it must be so expressed in the Payment Schedule . ,, 11.

Certificate for payment of taxed costs.—When an order directs payment of taxed costs out of a fund, the taxing officer must state in his certificate the name of the solicitor to whom such costs are payable . . . . . ,, 12.

Interest: how ascertained.—When interest not directed to be certified is payable under an order, there must be stated in the Payment Schedule the rate per centum at which, and, if possible, the day (inclusive) to which, such interest is to be computed, and the amount thereof . . . . . ,, 13.

When day to which interest is payable cannot be ascertained.—In such case, the day from which (exclusive) such interest is to be computed must be stated in the Payment Schedule, and may be directed to be computed and certified by a Chief Clerk or Taxing Officer . . . . . ,, 14.

Interest certified by a Chief Clerk, &c.—May be computed to a day subsequent to the certificate . . . . . ,, 15.

When interest to be ascertained by affidavit.—When the day for payment is not fixed by the order, and interest is not directed to be certified, it must, without any provision in the order, be ascertained by affidavit, or statutory declaration: in which case it must be computed to a day (inclusive), to be named therein, such day being not more than *fourteen days* after the day of swearing or making the affidavit or declaration . . . . ,, 16.

Deduction of income tax.—Whenever interest is to be computed, income tax must be deducted in making the computa-

tion; and the deduction must be stated in the affidavit or declaration . . . . . R. 17.

Documents on which dealings by the Paymaster are made contingent.—Whenever the dealing with funds in Court is made contingent on the execution of some document, such document must be described, and the parties thereto named, in the Payment Schedule, or in a certificate. The execution must be certified or verified by affidavit, if the order so directs . . . ,, 18.

Legacy and succession duties.—When dealing with funds subject to duty is directed, it must be stated in the Payment Schedule that such dealing is subject to duty . . . . . ,, 20.

Payment, &c., to trustees, &c.—When a person to whom payment, transfer, or delivery of funds is directed, is entitled thereto as real estate, or as trustee, executor, or administrator, or otherwise than in his own right, the fact that he is entitled to the same as real estate, or the character in which he is entitled, must be stated in the Payment Schedule, or in a certificate . . . . . ,, 21.

Payment out of money lodged in actions for debt or damages.—As to these, see pp. 182—184, 224 . . . . . ,, 44.

Funds to be dealt with only in pursuance of an order.—In general funds will not be paid, delivered, or transferred out of Court without an order . . . . . ,, 45.

Copy of Payment Schedule to be left.—A duly authenticated copy of every Payment Schedule must be left at the Pay Office: upon receipt of which and of the necessary authority or information the Paymaster will forthwith prepare the necessary directions for payment of the money, and for delivery or transfer of securities; and upon application (which may be sent by post), will sell securities in Court . . . . . ,, 46, 47.

Payment by post.—Any person entitled under an order to any sum not exceeding £500, and residing within the United Kingdom, may obtain a remittance by post, by sending to the Paymaster a request in the prescribed form (App. No. 12), duly attested . . . . . ,, 48.

Payments to official persons.—When money is directed to be paid to any public officer or department, or to an official liquidator, or any other official persons for whom an account is kept at the Bank, the payment may be made, on requisition, by transfer to such account. Duty may, on the requisition of the Commissioners of Inland Revenue, be transferred to the proper account at the Bank . . . . . ,, 52.

Funds ordered to be paid, &c., to women who afterwards marry.—In such case, upon an affidavit of no settlement, or if there is a settlement, upon an affidavit verifying the same and of the solicitor that the settlement does not affect the funds, they may be paid, &c., to the married woman without the intervention of her husband . . . . . ,, 61.

Payments to representatives of deceased persons.—Funds ordered to be paid, &c., to any person named or described in an order or certificate (except to a person expressed to be entitled to such funds as real estate, or in a representative capacity), may, on proof of death of such person, whether on or after, or, in case of *creditors*, *before* the date of the order, be paid, &c., to the legal personal representatives of such deceased person, or the survivors or survivor of them . . . . . ,, 62.

Payments, &c., to partners.—Money directed to be paid to persons described as co-partners may be paid to one or more of such co-partners, or the survivor . . . . . ,, 63.

Payments, &c., to surviving representatives.—Funds directed to be paid, &c., to any persons as legal personal representatives may, upon proof of death of any of them, whether on or after the date of the order, be paid, &c., to the survivors or survivor. ,, 64.

Time of grant of probate, &c.—No funds will, under rules 62

and 64, be paid, &c., to the legal personal representatives of any person under any grant purporting to be made at any time subsequent to the expiration of six years from the date of the order . . . . . R. 65.

Payment of duty.—The Paymaster must require production of the official receipt for duty or a certificate from the proper officer of payment or that none is payable, before acting on an order for payment, &c., of funds in respect of which (under r. 20) duty is stated to be payable . . . . . ,, 66.

Carrying over fees of taxation.—When costs are directed to be paid out of funds in Court the taxing officer must certify the names of the solicitors to whom such costs are payable, and the amount of fees payable. The Paymaster will carry over the amount so certified to the proper account in the Pay Office books . . . . . ,, 67.

Calculations of residues.—For the purpose of ascertaining the amounts of any residue or aliquot part of money or securities dealt with by an order, when they cannot be stated in the Payment Schedule and are not directed to be certified, the necessary calculations must be made in the Pay Office; but the Paymaster may require such calculations to be first stated in a certificate signed by the solicitor of the party interested . . ,, 94.

As to payment, transfer, and delivery out of Court of cash and securities, see 1 Seton, 95—109.

1778.

Summons for payment out of Court of cash (part of a larger sum) (*l*). [Dan. Pr. 1775, 1776.]

Formal parts: see Form 43 *or* 1077.

on the part of (*State whom*), that the sum of £100 (part of the sum of £1,000) cash in Court to the credit of (*Describe the fund, as in the Paymaster's certificate; as thus:* this action, B. *v.* D., 1876, B. 100, "The account of," *&c.*), may be paid to (the applicant) A. B.;

Or, to A. B. and C. D., as the legal personal representatives of G. H. deceased (*m*);

Or, to the legal personal representatives of G. H. deceased, when constituted (*n*);

Or, to A. B. and C. D., as the trustees of the will of, *&c.* [*or*, of the indenture of settlement, dated, *&c.*];

Or, to A. B., as entitled thereto as real estate (*nn*);

Or, to A. B. and C. D., as co-partners (*o*);

(*l*) Applications for payment or transfer of cash and securities out of Court are made either by petition or summons. Such applications may be made by summons where the cash or securities are standing to the credit of any cause or matter, and (1) where there has been a judgment or order declaring the rights, or where the title depends only upon proof of the identity, or the birth, marriage, or death of any person: R. S. C. Ord. LV. 2 (1); *Re Brandram*, 25 Ch. D. 366: 32 W. R. 180; (2), where the cash does not exceed 1000*l.*, or the securities do not exceed 1000*l.* nominal value: R. S. C. Ord. LV. 2 (2); *May* v. *Dowse*, W. N. (1884), 122. As to the persons to be served with the petition or summons, see Dan. Pr. 1776. As to the evidence in support, *Ibid.*, 1777. The directions to be acted on in the Pay Office will be contained in a payment schedule to the order to be made in each case: S. C. Funds Rules, 1884, r. 6; and note (*k*), *supra*. As to the papers to be left with the Registrar on bespeaking the order, see Dan. Pr. 1788. For form of order in the cases in the text, see 1 Seton, 95, Nos. 1, 2.

(*m*) As to describing in the payment schedule the character in which persons entitled in a representative capacity to funds in Court are so entitled, see S. C. Funds Rules, 1884, r. 21; and note (*k*), *supra*.

(*n*) See S. C. Funds Rules, 1884, r. 6 (*a*); and note (*k*), *supra*.

(*nn*) See *Ibid.* (*o*) *Ibid.*, r. 63; and note (*k*), *supra*.

Or, to A. B., spinster (*p*);
Or, to A. B., widow (*p*);
Or, to A., the wife of C. B. (*p*), for her separate use and on her separate receipt (*q*);
Or, to A. B., he undertaking duly to account for the same, and to distribute the same among the parties entitled thereto (*r*);
Or, to the persons named or described in the first column of the schedule hereto in the amounts set opposite to the respective names or descriptions of such persons in the second column thereof.

1779.

Consent of legatees, or creditors, to payment to a solicitor of sums under £10 to which they are entitled (*r*). [Dan. Pr. 1783, 1784.]

(*Short title and reference to the record.*)

We, whose names and signatures respectively are set forth in the first and second columns hereunder written, hereby request that the several sums of money set opposite our respective names in the third column hereunder written, and which have been certified to be due to us by the Chief Clerk's certificate dated the ——, 188—, as legatees under the will [*or*, as creditors upon the estate] of the testator A. B. [*or as may be*], may be paid to Mr. E. F., of (*place of business*), the plaintiff's solicitor [*or as may be*]: upon his undertaking to account for the same to us respectively.

Christian and surnames.	Signatures.	Amounts payable. £ s. d.	Signature and address of witness.
William Jones . . .	Wm. Jones .	8 6 3	X. Y., of (*address and description*).
Thomas Sharp and Arthur Clark (as co-partners) . . .	Sharp & Clark	3 8 9	

(*p*) When payment is directed to a woman, she must be described as "spinster," or "widow," or the "wife of, &c.:" 1 Seton, 91. As to payment to a woman not married, or a widow, at the date of the order, and who subsequently marries, see S. C. Funds Rules, 1884, r. 61; and note (*k*), *supra*.

(*q*) The Judges have laid down a rule, that a sum not exceeding 500*l*., standing to the account of "A., the wife of C. B.," may be ordered to be paid to the married woman on her separate receipt, without having her examined; but in each case the discretion is to be exercised by the Judge himself: *per* M. R. in Chambers, *Re Simpson's Estate*, 14 Dec. 1876. See also note (*n*) to Form 1796.

(*r*) According to the practice before the S. C. Funds Rules, 1884, the Court would not, as a general rule, order payment of a fund to any other person than the person entitled thereto; but if the amount payable to any person did not exceed 10*l*., it would order payment to the solicitor having the conduct of the proceedings, or to one of the parties, upon his undertaking to distribute the fund among the persons entitled thereto. The written consent of the persons entitled was sometimes required to be produced to the fund being so paid: see 1 Seton, 104, 105. But whether, having regard to S. C. Funds Rules, 1884, r. 48, which provides for payment being made by post (see note (*k*), *supra*), it is now proper to provide for payment to the solicitor, *quære*. It is to be observed, however, that the requirements of r. 48, will necessarily involve some trouble and expense to the payee, which in very small cases it is important to avoid; and, provided the parties expressly consent to the payment, there would seem to be no reason why the former practice should not be still followed.

1780.

Summons for payment out of Court of money on deposit (*t*).

Formal parts : see Form 43 *or* 1077.

on the part of (*State whom*), that the £500 money on deposit in Court, to the credit of this cause, B. *v.* D., 1876, B. 100, and any interest to be credited in respect thereof, may be paid to the applicant A. B. [*or as may be : see* Form 1778].

1781.

Summons for sale of securities to raise a sum certain : dividends and cash to be taken in aid (*u*).

Formal parts : see Form 43 *or* 1077.

on the part of (*State whom*), that so much of the £1,000 consolidated £3 per cent. annuities [*or as may be ; describe the securities*] in Court to the credit of this cause, B. *v.* D., 1876, B. 100, "The account of," &c., as with any dividends to accrue on the said annuities will raise £280, may be sold ; and that out of the money to arise by such sale and the said dividends (if any), and the £10 cash in Court to the same credit, the sum of £300 may be paid to (the applicant) A. B. [*or as may be : see* Form 1778].

1782.

Summons for sale of securities in Court, and for payment thereout of legacy or succession duty and costs, and for payment of the residue to applicant on coming of age.

Formal parts : see Form 43 *or* 1077.

on the part of A. B., of (*residence and addition*), late an infant, but now of full age :

1. That the £400 consolidated £3 per cent. annuities [*or as may be : describe the securities*] in Court to the credit of this cause, B. *v.* D., 1876, B. 100, "The account of A. B., an infant," may be sold.

2. That out of the money to arise by such sale, and out of the £10 money on deposit in Court to the same credit, and any interest to be credited in respect of such money on deposit, £—— being the assessed amount

Or, if the duty has not been assessed, say : the assessed amount (to be verified by affidavit)

of the legacy [*or,* succession] duty payable in respect of (*State what*), may be paid (*v*).

3. That the costs of this application may be taxed as between solicitor and client, and may be also paid to the applicant's solicitor (*x*), out of the said proceeds, money and interest.

4. That the residue of the said proceeds, money, and interest, may be paid to the applicant A. B. [*or as may be*].

(*t*) For form of order, see 1 Seton, 97, No. 6.

(*u*) *Ibid.*, 109, No. 2.

(*v*) See S. C. Funds Rules, 1884, r. 52 ; and note (*k*), *supra.* The payment schedule to the order will provide merely for payment of the proper duty : the amount of which will be transferred to the proper account at the bank without express words in the order. As to the payment of legacy or succession duty, see 1 Seton, 110—115.

(*x*) The payment schedule will merely provide for payment of the costs to be taxed : the names of the solicitors to whom such costs are payable being certified by the Taxing Master : S. C. Funds Rules, 1884, rr. 12, 67 ; and note (*k*), *supra.*

1783.

Summons for transfer and payment of specific sums of stock and cash to several persons named or described in schedule (*w*).

Formal parts : see Form 43 *or* 1077.

on the part of (*State whom*), that the £1,000 consolidated £3 per centum annuities, the £1,000 reduced £3 per cent. annuities, and the £300 cash respectively in Court to the credit of this cause, B. *v.* D., 1876, B. 100, may be respectively transferred and paid to the persons named or described in the first column of the schedule hereto, in the amounts set opposite to the respective names or descriptions of such persons in the second, third, and fourth columns of the said schedule.

Schedule.

1. Transferees and payees.	2. Amounts of consolidated annuities to be transferred.	3. Amounts of reduced annuities to be transferred.	4. Amounts of cash to be paid.
	£	£	£
1. The plaintiff, A. B.	500	500	150
2. C. D., the legal personal representative of E. F.	250	250	75
3. The legal personal representative of G. H., when constituted	250	250	75
	£1000	£1000	£300

1784.

Summons for transfer out of Court and payment of annuities, money on deposit, and cash (*y*).

Formal parts : see Form 43 *or* 1077.

on the part of (*State whom*), that £500 consolidated £3 per cent. annuities, £100 money on deposit, and £50 cash respectively in Court to the credit of this action, B. *v.* D., 188—, B. ——, No. ——, may be transferred and paid to (the applicant) A. B. [*or as may be : see* Form 1778].

1785.

Summons for transfer out of Court of parts of sums of stock (*z*).

Formal parts : see Form 43 *or* 1077.

on the part of (*State whom*), that out of the £3,000 new £3 per cent. annuities, the £1,000 Metropolitan $3\frac{1}{2}$ per cent. stock, and the £500 cash respectively in Court to the credit of this cause, B. *v.* D., 1876, B. 100, the several amounts mentioned in the second column of the schedule hereto, making together £1,000 like annuities, and the several amounts of Metropolitan stock mentioned in the third column thereof, making together £500 like stock, and the several amounts of

(*w*) For form of order, see 1 Seton, 97, No. 8.
(*y*) *Ibid.*, 97, No. 7.
(*z*) *Ibid.*, 98, No. 9.

cash mentioned in the fourth column thereof, making together £300 cash, may be respectively transferred and paid to the persons whose names or descriptions are set opposite to the same in the first column thereof.

Schedule.
(*Same as to* Form 1783.)

1786.
Summons for sale of securities and payment of cash, with Pay Office schedule (*a*).

Formal parts : see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the costs of the applicant, and of all parties properly appearing on this application, may be taxed ; and that the funds in Court may be dealt with as in the schedule hereto.

PAYMENT SCHEDULE.

In the High Court of Justice,
Chancery Division.
(*Date.*)
B. *v.* D., 188—. B. 165.
Ledger credit. As above.

Funds in Court { £730 7*s.* 7*d.* new 3 per cent. annuities.
£10 13*s.* 2*d.* cash.

Particulars of payments, transfers, or other operations ordered.	Payees and transferees or separate accounts.	Amounts.					
		Money.			Securities.		
		£	*s.*	*d.*	£	*s.*	*d.*
Pay	John Park . .	5	6	7			
Sell New 3 per Cent. Annuities.		...	...	...	730	7	7
Out of proceeds and balance of funds pay :—							
Costs of applicant, to be taxed.							
Legacy duty in respect of fund in Court.							
Divide residue in fourths, and pay as under :—							
One-fourth . . .	J. S. (applicant).						
One-fourth . . .	E. J., wife of W. J., on her separate receipt.						
Out of one-fourth . Residue of last-named one-fourth.	E. J. (widow). . E. S.	79	10	6			
Invest one-fourth in New 3 per Cent. Annuities, and carry over same, and accumulate the dividends in like Annuities.	Separate account of W. P. (plaintiff).						

(*a*) See S. C. Funds Rules, 1884, r. 6 ; App. No. 3 ; and note (*k*), *supra*. As to stamping a duplicate of the schedule, and leaving same at the Pay Office, see S. C. Funds Rules, 1884, r. 24. Such copy will be the Paymaster's authority for giving effect to the operations directed therein, *Ibid.*, 25. As to office copies of the schedule, *Ibid.*, 26. As to correction of accidental errors, *Ibid.*, 27.

1787.

Summons with combined lodgment and payment schedule (*b*).

Formal parts : see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that he may be at liberty on or before the —— day of ——, 188—, to pay into Court to the credit of this cause, Jones *v.* Brown, 1883, J. No. 15, subject to duty, the sum of £1,000 now in his hands, and forming part of the testator's estate ; and that thereupon the funds which will then be in Court may be dealt with as in the schedule hereto.

LODGMENT AND PAYMENT SCHEDULE.

In the High Court of Justice,
Chancery Division.

Date of order, ——, 1884.

Title of cause : Jones *v.* Brown. 1883. J. No. 15.
Ledger credit. As above.

I. LODGMENT.

Particulars of funds to be lodged.	Person to make the lodgment.	Amounts.					
		Money.			Securities.		
		£	*s.*	*d.*			
Cash	W. J. (plaintiff).	1000	0	0			

II. PAYMENT.

Funds { £500 consols now in Court.
£1000 to be lodged in Court, as above.

Particulars of payments, transfers, or other operations ordered.	Payees, transferees, or separate accounts.	Amounts.					
		Money.			Securities.		
					£	*s.*	*d.*
Sell consols.					500	0	0
Out of proceeds and the £1000 pay :—							
Costs of plaintiff and defendants (to be taxed).							
Legacy duty on fund in Court.							
Divide residue in fourths, and pay :—							
One-fourth . . .	A. B. (a defendant)						
Three-fourths . . .	C. D. (a defendant)						

(*b*) See S. C. Funds Rules, 1884, r. 8 ; App. No. 3 ; and note (*k*), *supra*.

1788.
Request for transfer of securities (*c*).

Ledger credit to which securities are standing } ——.
To the Assistant Paymaster-General.

(*Date*) ——, 188—.

I request that, pursuant to an order dated the —— day of ——, 188—, and a certificate filed the —— day of ——, 188—, the several amounts of (*State the securities*) hereunder specified, being securities now standing to the above ledger credit in the books of the Paymaster-General, may be transferred to the persons whose names are respectively placed opposite thereto.

Name, address, and description of transferee.	Amount of securities.

(*Signature* (*d*)).

1789.
Request for sale of a specified amount of securities (*e*).

Ledger credit to which the securities to be sold are standing } ——.
To the Assistant Paymaster-General.

(*Date*) ——, 188—.

I request that, pursuant to an order dated the —— day of ——, 188—, and a certificate [*or*, an affidavit] filed the —— day of ——, 188—, the sum of £—— standing to the above ledger credit in the books of the Pay Office, may be sold.

(*Signature*) ——.
(*Address*) ——.

1790.
Request to raise a specified sum by sale of securities (*f*).

Ledger credit to which the securities to be sold are standing } ——.
To the Assistant Paymaster-General.

(*Date*) ——, 188—.

I request that, pursuant to order dated the —— day of ——, 188—, and a —— filed the —— day of ——, 188—, the sum of £—— in cash be raised by the sale of so much as is necessary for that purpose of the (*Specify the securities to be sold*) standing to the above ledger credit in the books of the Pay Office.

(*Signature*) ——.
(*Address*) ——.

(*c*) See S. C. Funds Rules, 1884, r. 47 ; and note (*k*), *supra*.
(*d*) This must be signed by the solicitor in his own name : the Pay Office will not act on a firm's signature.
(*e*) See S. C. Funds Rules, 1884, r. 47 ; and note (*k*), *supra*. (*f*) *Ibid*.

1791.

Deed of transfer for transferring out of Court securities passing by deed (*g*).

I, A. B., Assistant Paymaster-General for Supreme Court business, on behalf of Her Majesty's Paymaster-General, in pursuance of an order of the said Court, dated the —— day of ——, 188—, and made in (*title of cause or matter*), do hereby assign and transfer from the account of Her Majesty's Paymaster-General for and on behalf of the Supreme Court of Judicature, to C. D., of (*address and description of transferee*), —— (*Here insert amount and title of stock*) of and in the undertaking called the (*Here insert title of company*), to hold unto the said C. D., his executors, administrators, and assigns, subject to the several conditions on which the Paymaster-General held the same immediately before the execution hereof. And the said C. D. hereby agrees to accept and take the said (*Here insert the title of the stock*), subject to the conditions aforesaid.

As witness our hands and seals this —— (*h*) day of ——, in the year of our Lord one thousand eight hundred and eighty ——.

A. B. L.S.

Signed, sealed, and delivered by the above-named A. B. in the presence of, *&c.*

C. D. L.S.

Signed, sealed, and delivered by the above-named C. D. in the presence of, *&c.*

1792.

Request for remittance by post of a particular sum (*i*).

Postal address, ——.

To the Assistant Paymaster-General,
Royal Courts of Justice, London.

(*Date*) ——, 188—.

Reference to order of Court (stating the Division, year, letter, and No., and the date of the order) (*j*).	Chancery Division. 188—. B. No. ——. Order dated ——, 188—.
Precise title of ledger credit of cause or matter in the Pay Office books (*j*).	——.

I, the undersigned, declare that I am the person to whom a sum of £—— is directed to be paid by the above-cited order of the High Court

(*g*) This form of deed of transfer must be used. Forms are procurable at the Pay Office.

(*h*) Insert day of the month in words.

(*i*) See S. C. Funds Rules, 1884, r. 48; App. No. 12; and note (*h*), *supra*.

(*j*) Remittances by post may be obtained in all cases of authorised periodical payments of annuities, dividends, &c., and in the case of other payments which do not exceed 500*l*.; but it will not be possible to comply with any request for a remittance in which the particulars required to be inserted at the head of this form are not fully and accurately stated. These particulars, if not otherwise known, can be obtained from the solicitor by whom information has been given of the amount payable: note to Official Form.

of Justice; and I request the Paymaster-General to transmit to me by post to the above address the necessary direction or other authority to enable me to obtain payment of the said sum.

(*Signature*) ——.

We certify that the person who has signed this request is known to us, and is the person to whom the sum therein mentioned is directed to be paid by the above-mentioned order (*k*).

(*Signatures and Addresses.*) ——.
——.

1793.

Summons for delivery out of securities passing by delivery (*l*).

Formal parts: see Form 43 *or* 1077.

on the part of (*State whom*), that the (*Here describe the securities, as thus:* Exchequer Bills] in Court to the credit of this cause, B. *v.* D., 1876, B. 100, "The account of," *&c.*, amounting together to £200, and specified in the schedule hereto

If the securities are Exchequer Bills, add: or any other Exchequer Bills for which the same may be exchanged,

may be delivered out to (the applicant) A. B. [*or as may be: see* Form 1778].

Schedule.

(*Same as to* Form 1735.)

1794.

Summons for delivery out of box deposited in Court.

Formal parts: see Form 43 *or* 1077.

on the part of (*State whom*), that the box indorsed "In the High Court of Justice, Chancery Division, B. *v.* D., 1879, B. 300, The account of, *&c.*, Securities" [*or as may be*], in Court to the credit of this action, B. *v.* D., 1879, B. 300, "The acconnt of," *&c.*, may be delivered out to (the applicant) A. B. [*or as may be: see* Form 1778].

1795.

Summons to substitute the name of one person for that of another as payee, &c. (*m*).

Formal parts: see Form 43 *or* 1077.

on the part of C. D., of (*residence and addition*), that notwithstanding the order dated the —— day of ——, 188—, the £500 cash [*or*, the £1,000 consolidated £3 per cent. annuities—*or as may be*]

If the sum dealt with is part of a larger sum, add: part of the £2,000 cash [*or*, like annuities—*or as may be*]

in Court to the credit of this action, B. *v.* D., 1876, B. 100, "The account of," *&c.*, by the said order directed to be paid [*or*, transferred—*or*, delivered] to A. B., may instead thereof be paid [*or*, transferred—*or*, delivered] to the applicant C. D. [*or as may be: see* Form 1778].

(*k*) This certificate must be signed by two persons. One of such persons must be a justice of the peace, or a commissioner to administer oaths, or a clerk in holy orders, or a notary public, and should state the capacity in which he signs.

(*l*) For form of order, see 1 Seton, 98, No. 10.

(*m*) *Ibid.*, 99, No. 13.

1796.

Summons to appoint commissioners to take a married woman's examination as to the disposition of a fund in Court (*n*). [Dan. Pr. 123, 124.]

Formal parts: see Form 43 *or* 1077.

on the part of A. B., of (*residence and addition*), and C. his wife, late, and in the order dated the —— day of ——, 188—, called C. D., an infant [*or as may be*]: that the said C., the wife of the said A. B., may attend before E. F., G. H., J. K., and L. M., all of the city of York [*or as may be*], solicitors of the Supreme Court, or any two of them, and be examined secretly and apart from her said husband, whether she desires to have the (*Describe the fund; as thus:* £1,000 consolidated £3 per cent. annuities in Court to the credit of—*State title of ledger credit to which the fund stands*), or any and what part thereof, settled for the benefit of herself, her husband and children, in such manner as the Court shall approve, or whether she desires that the said £1,000 consolidated £3 per cent. annuities [*or as may be*], or any and what part thereof, should be transferred [*or as may be*] to the said A. B., her husband.

1797.

Examination of a married woman by commissioners (*o*). [Dan. Pr. 124.]

In the High Court of Justice,

Chancery Division.

(*Title and reference to the record: as in order directing the examination.*)

The examination of C., the wife of A. B., in the order made in this action [*or*, matter] dated the —— day of ——, 188— (*Order directing the examination*), respectively named: taken pursuant to the said order.

I, the said C. B., the wife of the said A. B., having been this day examined, secretly and apart from my said husband (*p*), by E. F. and G. H., in the said order respectively named, whether (*q*) I desire to have the (*Describe the funds, as in the order directing the examination*), or any and what part thereof, settled for the benefit of myself, my husband and children, in such manner as the Court shall approve, or whether I desire the said (*Describe the funds, as above*), or any and what part thereof, to be transferred [*or as may be*] to the said A. B., my husband, for answer

(*n*) For the practice as to the appointment of, and examination by, commissioners, see Dan. Pr. 123—126. The examination of the wife cannot be taken where she is not of full age, *Ibid.*, 127. As to when her examination will be dispensed with, see *Ibid.*, 128. It is apprehended that where the woman has married since the Married Women's Property Act, 1882, her examination will not be necessary: though an affidavit as to settlement will still be required; and that the same will be the case if she married before the Act, but her right to the fund has accrued since: see 45 & 46 Vict. c. 75, ss. 2, 5.

(*o*) The examination should be written on the first side of a sheet of foolscap; and the commissioner's certificate should follow thereunder. As to revocation of consent by the wife, see Dan. Pr. 127. As to paying the fund to the wife, on her separate receipt, without examination, *Ibid.*, 128.

(*p*) The husband, or his solicitor, or any person connected with them, should not be present at this examination: Dan. Pr. 124, note (*l*).

(*q*) The language of the order directing the examination should be here adopted.

thereto say that I am willing and desirous that (*Here state the result of the examination; as thus:*

the said (*Describe the fund or part of it which the woman desires to have settled*) should be settled for the benefit of myself, my husband and children, in such manner as this Court or any Judge thereof shall approve. *Or,*

the said (*Describe the fund which the woman is willing should be paid or transferred to the husband*) should be transferred [*or*, paid—*or as may be*] to my husband the said A. B.).

If to be transferred and paid to husband, add: And I hereby freely and voluntarily consent to the said sums being transferred and paid to my said husband, accordingly. As witness my hand, this —— day of ——, 188—.

C. B.

Witness to the signature of the said C. B.,
X. Y., of (*residence and addition*).

1798. Certificate of examination. [Dan. Pr. 124.]

To Her Majesty's High Court of Justice.

We, the undersigned E. F. and G. H.: being two of the commissioners named in the order dated the —— day of ——, 188—, above mentioned: humbly certify that, pursuant to the said order, we have this day examined the above-named C. B., the wife of the above-named A. B., secretly and apart from her said husband, whether she desires to have (*&c., as in the order directing the examination*). And we have taken such examination in writing, as above set forth.

We further certify that, at the time of such examination, we read over the said order to the said C. B., and explained to her the purport and effect thereof; and we were satisfied that she was then aware of the nature and object of the said examination.

If the funds are to be transferred and paid to the husband, add: and that she freely and voluntarily consented to the sums above mentioned being transferred and paid to her said husband, A. B.

E. F.
G. H.

Witness to the signatures of the said E. F. and G. H.,
X. Y.

1799. Affidavit verifying the signatures to the examination and certificate (*r*). [Dan. Pr. 124.]

Formal parts: see Form 6.

1. On the —— day of ——, 188—, I saw C. B., the wife of A. B., in the order made in this action [*or*, matter] dated the —— day of ——,

(*r*) This affidavit should be written on the third or fourth side of the sheet of paper containing the examination and certificate; but it may be written on a separate sheet of foolscap.

188— (*Order directing the examination*), respectively named, sign the paper writing, marked C B 1 (*s*), hereunto annexed, and purporting to be her examination taken pursuant to the said order.

2. On the said —— day of ——, I also saw E. F. and G. H., two of the commissioners named in the said order, respectively sign the paper writing, marked C B 2 (*t*), hereto annexed, and purporting to be their certificate of the said examination.

3. The signature "——," set and subscribed to the said examination, is of the proper handwriting of the said C. B.

4. The signatures "——," and "——," respectively set and subscribed to the said certificate, are of the respective proper handswriting of the said E. F. and G. H.

5. The signature "——," set and subscribed to the attestation at the foot of the said examination and certificate respectively, is of my proper handwriting.

1800.

Memorandum of identity of examination and certificate (*u*). [Dan. Pr. 124.]

(*Short title and reference to the record.*)

These are the paper writings, marked respectively C B 1 and C B 2, referred to in the affidavit of X. Y., sworn in this action [*or*, matter] before me, this —— day of ——, 188—.

W. D., a commissioner, &c.

1801.

Affidavit by husband and wife of no settlement (*v*).

(*Title and reference to the record.*)

We, A. B., of (*residence and addition*), and C. his wife, jointly and severally make oath and say, as follows:

1. This deponent C. B. is the same person as C. D., in the order made in this action [*or*, matter] dated the —— day of ——, 188—, named, and to whom the (*State what: as in the order*) are thereby directed to be paid [*or*, transferred—*or*, delivered].

If the marriage has not been otherwise proved, add:—2. On the —— of ——, 18—, we intermarried at the parish church of W., in the county of Y.; and we are the same persons as A. B. and C. D. respectively named in the certificate of marriage now produced and shown to us, and marked A. (*w*).

3. No settlement or agreement for a settlement whatsoever was made or entered into before or upon, or has been made or entered into since our said marriage.

(*s*) See Form 1797. For form of memorandum of exhibit, see Form 28; and note (*ss*) thereto.

(*t*) See Form 1798. For form of memorandum of exhibit, see Form 28; and note (*ss*) thereto.

(*u*) The memorandum should be written on the margin of the first page of the examination and certificate.

(*v*) See S. C. Funds Rules, 1884, r. 61; and note (*k*), at p. 777.

(*w*) Exhibit it. For form of memorandum of exhibit, see Form 28.

1802.

The like, where there is a settlement or agreement, but not affecting the fund (*x*).

(*Title and reference to the record.*)

We, A. B., of (*residence and addition*), and C. his wife, and E. F., of (*Place of business*), gentleman, the solicitor of the said A. B. and C. his wife, severally make oath and say, as follows:

And first, we the said A. B. and C. his wife, for ourselves, say:

1. This deponent (*Proceed as in* Form 1801 *to the end of paragraph* 3; *and continue as follows:* other than and except the settlement [*or*, agreement for a settlement], now produced and shown to us, and marked D. (*y*), and dated the —— day of ——, 188—.

And I, the said E. F., for myself, say:

I have carefully perused the said settlement [*or*, agreement for a settlement] dated the —— day of ——, 188—, and which is also now produced and shown to me, and marked D.; and, according to the best of my judgment, the (*Describe the moneys, stocks, funds, shares or securities sought to be paid, transferred, or delivered out; and the action or matter, and ledger credit to which they stand*) are not, nor is, nor are any part or parts thereof, subject to the trusts of the said settlement [*or*, agreement for a settlement], or in any manner comprised therein, or affected thereby.

1803.

Requisition from official person for transfer of cash to his account at the Bank of England (*z*).

To the Assistant Paymaster-General.

(*Place of business.*)

—— day of —— (*Date*).

I, A. B., of ——, the official liquidator of the —— Company, Limited [*or as may be*], hereby request that the sum of £——, payable to me as such liquidator as aforesaid [*or as may be*], out of cash in Court to the ledger credit (*State the title of the ledger credit in the books of the Pay Office to which the cash is standing*), may be transferred to my account at the Bank of England, entitled (*State the title of the official person's cash account in the bank books*), pursuant to an order dated ——, 188—.

A. B.

(*Signature of the official person.*)

1804.

Certificate of solicitor of amount of residue of a fund: to be dealt with by the Paymaster (*a*).

(*Short title and reference to the record.*)

I certify that the residue of the (*Describe what: according to the order; as thus:* sum of £——, consolidated £3 per cent. annuities, in the order dated the —— day of ——, 188—, mentioned, after the sale of so much thereof as, with the cash in Court to the credit of this action, was sufficient to raise the sum of £——), amounts to the sum of £——, and no more. (Signed) X. Y. (*b*).

(*x*) See S. C. Funds Rules, 1884, r. 61; and note (*k*), at p. 777.

(*y*) Exhibit same. For form of memorandum of exhibit, see Form 28.

(*z*) See S. C. Funds Rules, 1884, r. 52; and note (*k*), at p. 777.

(*a*) *Ibid.*, r. 94; and note (*k*), at p. 777.

(*b*) This certificate must be signed by the solicitor actually giving it: the Pay Office will refuse to act on a certificate signed in a firm's name.

1805.

Affidavit for payment, &c., to personal representatives of a person named in an order (*c*). [Dan. Pr. 1792, 1793.]

Formal parts: see Form 6.

1. I was well acquainted with A. B., deceased, the person named in the order dated the —— day of ——, 188—, and late of (*&c.: Follow description in probate or administration*), who died on the ——, 188—.

2. Probate of the will [*or, Letters of administration of the effects*] of the said A. B., was [*or,* were] granted by the Principal Registry of the Probate Division of this Court, on the —— day of ——, to C. D. and E. F.: which probate [*or,* letters of administration], marked A. B. 1 (*d*), is [*or,* are] now produced and shown to me.

3. The said A. B. is also the person named in the certificate of burial [*or,* official extract from the register of deaths] now produced and shown to me, marked A. B. 2 (*d*).

1806.

Affidavit for payment, &c., to survivors or survivor of personal representatives named in an order (*e*).

Formal parts: see Form 6.

1. I was well acquainted with A. B., deceased, the person named in the order dated the —— day of ——, 188—, as one of the legal personal representatives of C. D., deceased.

2. The said A. B. died on the ——, 188—, and is the person named in the certificate of burial [*or,* official extract from the register of deaths], now produced and shown to me, marked A (*f*).

1807.

Request for power of attorney to receive cheque (*ff*). [Dan. Pr. 1793, 1794.]

Proceed as in Form 1769, *down to* known to me; *and continue thus:* to receive your cheque on the Bank of England for the sum of £—— out of cash in Court on the credit of (*Short title of cause or matter and account, if any*).

Dated —— day of ——, 188—.

B. W. S.

[*Or,* B. W. S. for S. and C.]

1808.

Notice to creditors that cheques may be received (*g*).

Formal parts: see Form 37.

The cheques for the amounts directed to be paid to the creditors of A. B., deceased, by an order made in this (matter and) action, dated the —— day of ——, 188—, may be received at the Paymaster-General's Office on and after the —— day of ——, 188—.

X. Y.

Solicitor for the plaintiff [*or as may be*].

To Mr. ——.

(*c*) S. C. Funds Rules, 1884, r. 62; and note (*k*), at p. 777. If any one of the legal personal representatives is a woman, she must be described as a married woman, or widow, or spinster as the case may be. The affidavit should not be made by one of the legal personal representatives.

(*d*) Exhibit same. For form of memorandum of exhibit, see Form 28; and note (*ss*), thereto.

(*e*) See S. C. Funds Rules, 1884, r. 64; and note (*k*), at p. 777.

(*f*) Exhibit it. For form of memorandum of exhibit, see Form 28.

(*ff*) See note (*b*) to Form 1769.

(*g*) See R. S. C. Ord. LV. 60; App. L., No. 9.

1809.

Affidavit of subsequent interest (*h*).

Formal parts: see Form 6.

1. I have computed subsequent interest, after the rate of £—— per centum per annum, on the several debts [*or*, legacies—*or as may be*] in the schedule to the certificate [*or*, order] dated the —— day of ——, 188—, mentioned, from the —— day of —— to the —— day of —— next, the day for payment of the said debts [*or*, legacies—*or as may be*] inclusive (*i*); and in making such computation I have deducted from such interest the income tax thereon (*j*).

2. The result of my said computation appears in the schedule hereto, and such computation as set forth therein is correct.

1810.

Statutory declaration in like case.

(*Title and reference to the record.*)

I, A. B., of (*place of abode and description*), do solemnly and sincerely declare that (*Set forth the matter declared, as in* Form 1809). And I make this solemn (*Conclude as in* Form 1743).

(*h*) See S. C. Funds Rules, 1884, r. 16; and note (*k*), at p. 777.

(*i*) This date must be subsequent to and not more than *fourteen days* after the swearing the affidavit: S. C. Funds Rules, 1884, r. 16.

(*j*) S. C. Funds Rules, 1884, r. 17.

CHAPTER XXX.

INTERIM DETENTION AND PRESERVATION AND INSPECTION OF PROPERTY (*a*).

(*Dan. Pr.*, pp. 1801—1805. ccccxvi.)

(*a*) *Detention and Inspection of Property.—Summary of Material Provisions of R. S. C.* 1883.

	ORDER.
Preservation of subject-matter of disputed contract.—When by any contract a *primâ facie* case of liability is established, and there is alleged as matter of defence a right to be relieved from such liability, an order may be made for the preservation or interim custody of the subject-matter of the litigation, or the amount in dispute may be ordered to be brought into Court or otherwise secured	L. 1.
An application for an order may be made by plaintiff at any time after his right appears from the pleadings; or, if no pleadings, is made to appear by affidavit or otherwise . . .	,, 7.
Order for sale of perishable goods.—The Court or a Judge may, on the application of any party, order a sale of any goods, wares, or merchandise of a perishable nature or likely to injure from keeping, or which for any other reason it may be desirable to have sold at once	,, 2.
Detention, preservation, or inspection of property.—The Court or a Judge may, on the application of any party, order the detention, preservation, or inspection of any property or thing, being the subject of the cause or matter, or as to which any question may arise therein; and may authorise any persons to enter any land or building in the possession of any party to such cause or matter, and may authorise samples to be taken, or any observation to be made, or experiment to be tried	,, 3.
Application under rr. 2, 3: *how and when to be made.*—It may be made by any party: if by plaintiff, it may be made, after notice to defendant, at any time after issue of the writ of summons; if by any other party, then on notice to plaintiff, at any time after appearance by the applicant	,, 6.
Inspection by Judge or Jury.—A Judge, by whom any cause or matter is heard or tried with or without a jury, or before whom any cause or matter is brought by way of appeal, may inspect any property or thing concerning which any question may arise therein	,, 4.
The provisions of rule 3 apply to inspection by a jury, and in such case all such orders may be made upon the sheriff or other person as may be necessary to procure the attendance of a special or common jury	,, 5.

1811.

Notice of motion or summons for preservation or custody of property (*b*). [Dan. Pr. 1801.]

Formal parts: see Form 38 *or* 43 *or* 1077.

on the part of the plaintiff that, pending the trial of this action, the jewellery [*or as may be—describing the subject-matter of the litigation*]

(*b*) See R. S. C. Ord. L. 1, 7; and note (*a*), *supra;* Wilson, 426; Ann. Pr., 466, 467; Chitty's Forms, 242. The object of the application is very generally attained by moving for a receiver, or for an injunction. By arrangement between the parties, an order is frequently made for deposit at a banker's in the joint names of the solicitors to the parties.

in the statement of claim mentioned may be deposited in Court to abide further order [*or*, that the sum of £——, the amount in dispute in this action, may be paid into Court to the credit of this action: to abide further order.]

If it is desired to invest, add: and that the said sum when so paid in may be invested in consolidated 3 per cent. annuities, and that the dividends as they accrue thereon may from time to time be invested in like annuities.

And that the costs of this application may be costs in the action.

1812.

Notice of motion or summons for sale of property (*c*). [Dan. Pr. 1801, 1802.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the (*Describe the property which it is desired to sell; as thus:* the horse mentioned in the —— paragraph of the plaintiff's statement of claim) may be sold by A. B., of, &c., and that the proceeds of such sale, after deducting the expenses thereof, may be paid into Court to the credit of this action: to abide further order.

(*If it is desired to invest the amount when paid in, and accumulate the dividends, proceed as in* Form 1811.)

And that the costs of this application may be costs in the action.

1813.

Notice of motion or summons for liberty to inspect subject-matter of action, and to take samples thereof (*d*). [Dan. Pr. 1802.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the plaintiff, his solicitors and agents, and also two persons to be named by the plaintiff, may be at liberty, at all reasonable times, upon giving to the defendant's solicitor twenty-four hours' previous notice in writing, to inspect the grain [*or as may be*], the subject-matter of this action, and to take samples thereof. And that the defendant [*or as may be*] may be ordered to permit the said plaintiff, his solicitors and agents, and the two persons to be named by him as aforesaid, to inspect the said grain [*or as may be*], and to take samples thereof. And that the costs of this application may be costs in the action.

1814.

Notice of motion or summons for liberty to inspect defendant's premises, and to take drawings, &c., in a light and air case (*e*). [Dan. Pr. 1804.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the plaintiff, his solicitors and agents, and also three surveyors to be named by the plaintiff, may

(*c*) See R. S. C. Ord. L. 2, 6; Ann. Pr. 467; Chitty's Forms, 244; *Bartholomew* v. *Freeman*, 3 C. P. D. 316.

(*d*) See R. S. C. Ord. L. 3. 6; and note (*a*), *supra;* 1 Seton, 351, 352; Wilson, 427, 428; Ann. Pr. 467, 468; Chitty's Forms, 242, 244. For forms of orders, see 1 Seton, 345, No. 4: 350, No. 11; see also *Badische Anilin und Soda Fabrik* v. *Levinstein*, 24 Ch. D. 156. An order for inspection of the subject-matter of an action will not be made where the defendant has neither possession of, nor property in the same, and the person having such property or possession is not before the Court: *Reid & Glasgow* v. *Powers*, 28 Sol. J. 653.

(*e*) See R. S. C. Ord. L. 3, 6; and note (*a*), *supra*. For case in which leave was given to plaintiff to enter on defendant's land, to ascertain the course of a drain, see *Lumb* v. *Beaumont*, 27 Ch. D. 356 32 W. R. 985.

be at liberty, at all reasonable times, upon giving twenty-four hours' previous notice in writing to the defendant's solicitor, to enter upon the defendant's premises in the statement of claim in this action mentioned, and to inspect such parts of the said premises as are opposite to, and against, and in the neighbourhood of, the windows in the plaintiff's premises in the —— paragraph of the statement of claim mentioned, and to make and take maps, plans, drawings, models, photographs, measurements, and observations thereof; and also, when upon the said defendant's premises, to make and take maps, plans, drawings, models, photographs, measurements, and observations of the plaintiff's premises in the statement of claim mentioned. And that the defendant [*or as may be*] may be ordered to permit the plaintiff, his solicitors and agents, and the persons to be named by the plaintiff as aforesaid, to enter and be upon the premises of the said defendant for all the purposes aforesaid. And that the costs of this application may be costs in the action.

1815.

Notice of motion or summons for leave to inspect underground workings (*f*). [Dan. Pr. 1804.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the plaintiff, his solicitors, and agents, and also a surveyor [*or*, —— surveyors] to be appointed by the plaintiff, may be at liberty at all reasonable times, upon giving twenty-four hours' notice, to enter into, inspect, and examine the mines occupied by the defendants, and to inspect and examine the mining operations and workings carried on therein, and the working plans connected therewith, so far as may be necessary to ascertain whether the defendants have worked into the plaintiff's land, and how far and to what extent, and to measure, dial, and make all such plans and surveys as may be necessary for that purpose; and that the defendant [*or as may be*] may be ordered to permit the plaintiff, his solicitors and agents, and the surveyor [*or*, surveyors] to be appointed as aforesaid, to enter into the said mines for the purposes aforesaid, and to permit them to use the said defendant's machinery for the purpose of descending and ascending, and to give all other reasonable facilities for the purpose of the said inspection. And that the costs of this application may be costs in the action.

1816.

Notice of motion or summons to inspect defendants' process, and take samples, in action for infringement of letters patent (*g*). [Dan. Pr. 1803.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the plaintiff, his solicitors and agents, and also two scientific witnesses to be named in the notice hereinafter mentioned, may be at liberty, at all reasonable times, and as often as may be requisite, upon giving three days' previous notice in writing to the defendants' solicitors, to enter in and upon the business premises of the defendants, where the process of decorating or printing

(*f*) See R. S. C. Ord. L. 3, 6; and note (*a*), *supra*; 1 Seton, 208. For forms of order, see 1 Seton, 202, No. 2: 203, No. 4: 204, No. 5.

(*g*) See R. S. C. Ord. L. 3, 6; and note (*a*), *supra*. For form of orders, see 1 Seton, 345, No. 4: 350, No. 11; and see *Ibid.*, 351, 352. As to proceedings in actions relating to patents, see pp. 665—669.

tin and metal plates is carried on by the defendants, as stated in the plaintiff's statement of claim in this action; and to inspect and examine there the whole of the process by which such printed and decorated tin and metal plates are manufactured by the defendants, and to take, on paying the reasonable charges of the defendants for the same, samples of such plates, and upon and during such inspection, to make such observations as may be necessary and expedient for the purpose of obtaining full information and evidence of the mode by which such plates are manufactured by the defendants; and that the defendants may be ordered to permit the plaintiff, his solicitors and agents, and two persons to be named as aforesaid, to enter into and upon their said premises for the purposes aforesaid. And that the costs of this application may be costs in the action.

CHAPTER XXXI.

DISCOVERY AND PRODUCTION AND INSPECTION OF DOCUMENTS.

(*Dan. Pr.*, pp. 1806—1882, ccccxvi.—ccccxx.)

SECTION I.—DISCOVERY BY INTERROGATORIES (*a*).

(*Dan. Pr.*, pp. 1806—1816, ccccxvi.—ccccxviii.)

(*a*) *Discovery by Interrogatories.—Summary of Material Provisions of R. S. C.* 1883.

ORDER.

When interrogatories may be delivered.—In actions founded on fraud or breach of trust, the plaintiff may at any time after delivery of claim and the defendant may, at any time after delivery of defence, without order, and in every other cause or matter either party may by special leave, deliver interrogatories for examination of the opposite parties. No party can deliver more than one set of interrogatories without an order. Interrogatories not relating to any matters in question in the cause or matter will be deemed irrelevant, notwithstanding that they might be admissible on oral examination of a witness . . XXXI. 1.

Matters to be considered, on giving leave.—Any offer made by the party sought to be interrogated, to deliver particulars, to make admissions, or produce documents, is to be taken into account upon any application for leave to exhibit interrogatories ,, 2.

Costs of improper interrogatories.—The costs occasioned by interrogatories exhibited unreasonably, vexatiously, or at improper length, and the answers thereto, must be paid in any event by the party in fault . . . . . ,, 3.

Form of interrogatories.—Interrogatories must be in the prescribed form (App. B. No. 6) . . . . . ,, 4.

Corporation or companies: answers by.—If any party to a cause or matter is a body corporate or a joint-stock company, or any other body of persons empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply for an order allowing him to deliver interrogatories to any member or officer of such corporation, company, or body . . . . . ,, 5.

Objections to interrogatories by answer.—Any objection to answering any one or more interrogatories, on the ground that it or they is or are scandalous or irrelevant, or not *bonâ fide* for the purpose of the cause or matter, or that the matters inquired into are not sufficiently material at that stage, or on any other ground, may be taken in the affidavit in answer . . . ,, 6.

Setting aside and striking out interrogatories.—Any interrogatories may be set aside on the ground that they have been exhibited unreasonably or vexatiously, or struck out as being prolix, oppressive, unnecessary, or scandalous: an application for this purpose may be made within *seven days* after service of the interrogatories . . . . . ,, 7.

Affidavit in answer.—Interrogatories must be answered by affidavit to be filed within *ten days*, or within such other time as a Judge may allow . . . . . ,, 8.

	ORDER.
Printing affidavit.—An affidavit in answer to interrogatories, must, if exceeding ten folios, be printed; and must be in the prescribed form (App. B. No. 7)	XXXI. 9.
No exceptions to be taken.—No exceptions may be taken to any such affidavit, but the sufficiency or otherwise must be determined by the Court or Judge on motion or summons . .	,, 10.
Order to answer.—If a person interrogated omits to answer, or answers insufficiently, an order may be made requiring him to answer, or to answer further, either by affidavit or by *viva voce* examination	,, 11.
Premature discovery.—If the party from whom discovery is sought objects to the same, the Court or a Judge may, if satisfied that the right to discovery depends on the determination of any issue or question in dispute or that for any other reason any issue or question should be determined before deciding on the right to discovery, order such issue, &c., to be determined first, reserving the question as to discovery	,, 20.
Non-compliance with order.—If any party fails to comply with an order to answer interrogatories, he is liable to attachment; if a *plaintiff*, he is also liable to have his action dismissed for want of prosecution, and if a *defendant*, to have his defence struck out; and the party interrogating may apply for an order to that effect	,, 21.
Service on solicitor.—Service of an order for interrogatories made against any party on his solicitor is sufficient to found an application for attachment for disobedience to the order; the party against whom such application is made may show in answer thereto that he has had no notice or knowledge of the order	,, 22.
Attachment.—A solicitor served with an order for interrogatories, who neglects, without reasonable cause, to give notice thereof to his client, is liable to attachment	,, 23
Using answers to interrogatories at the trial.—Any party may at the trial use in evidence any one or more of the answers, or any part of an answer, of the opposite party without putting in the others or the whole of such answer; but the Judge may look at the whole of the answers, and direct any others of them to be put in	,, 24.
Security for costs of discovery.—In every cause or matter the costs of discovery by interrogatories must be secured in the first instance by the party interrogating, and will be allowed as part of his costs, where, and where only, the discovery appears to the Judge at the trial, or (if no trial) to the Court or a Judge, or to the Taxing Officer, to have been reasonably asked for	,, 25.
Mode of giving security.—Any party seeking discovery by interrogatories, must, before delivery thereof, pay into Court to "Security for Costs Account," the sum of £5, and if the number of folios exceeds five, the further sum of 10*s.* for every additional folio. A copy of the receipt for payment into Court must be served with the interrogatories, and the time for answering will commence from the date of such service. No answer can be required until the payment has been made .	,, 26.
Disposition of "security for costs" fund.—The amount will (after the final disposal of the cause or matter), be given out to the party who paid it in, on his request, or to his solicitor on his written authority, if the costs are adjudged to him, but if he is ordered to pay costs the amount in Court will be subject to a lien for the costs ordered to be paid to any other party . .	,, 27.
Certificate for payment out of deposit.—If, after final disposal of a cause or matter, no taxation of costs is required, the Taxing Officer, or Chief Clerk, may, either by consent, or on being satisfied that a party who has lodged money to "security for costs account" is entitled to have the same paid out,	

ORDER.

give a certificate to that effect, which will have the same effect as an order. (See R. S. C. Oct. 1884, 1: S. C. Funds Rules, Oct. 1884, substituted for S. C. Funds Rules, 1884, r. 44 (c).) . XXXI. 27*a*.

Discovery against sheriff.—In an action against or by a sheriff in respect of any matter connected with the execution of his office, an order may be made that the affidavit in answer to interrogatories be made by the officer actually concerned. . ,, 28.

As to interrogatories in general, see 1 Seton, 143—146; Wilson, 363; Ann. Pr. 312—317; Chitty's Forms, 285—296, and notes thereto; Chitty's Arch. 1147—1154.

1817.

Summons for leave to deliver interrogatories (*b*). [Dan. Pr. 1806, ccccxvi.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or*, defendant], that the applicant may be at liberty to deliver to the defendant A. B. [*or*, to the plaintiff—*or as may be*] interrogatories in writing; that the said defendant [*or as may be*] do within —— days answer the questions in writing by affidavit; and that the costs of this application may be costs in the action.

1818.

Request for lodgment of money to security for costs account (*c*). [Dan. Pr. 1806, ccccxvii.]

(*Short title and reference to the record.*)

Ledger credit to } ——.
which lodged. }

(*Date*) ——, 188—.

The Paymaster is requested to issue a direction to the Bank to receive £—— for the ledger credit in the books of the Pay Office above specified: which amount is paid in to security for costs account.

(*Signature*) ——.

(*b*) *Leave to deliver interrogatories.*—As to cases in which interrogatories may be delivered without leave, and the time for delivery in such cases, see R. S. C. Ord. XXXI. 1; and note (*a*), *supra*. For form of order giving leave to deliver interrogatories, see R. S. C. App. K., No. 16. Upon an application for leave to deliver interrogatories, the Judge will not decide as to the relevancy of particular interrogatories: *Hall* v. *Liardet*, W. N. (1883), 175. It is not necessary that a copy of the proposed interrogatories should be served on the party to be interrogated, before the application is made: *Hall* v. *Liardet*, W. N. (1883), 165. Interrogatories have been allowed in an action for damages for personal injuries: *Jones* v. *London Road Car Co.*, W. N. (1883), 196; but see *O'Meara* v. *Stone*, W. N. (1884), 72. As to cases in which interrogatories as to the amount of damages claimed are admissible, see *Clarke* v. *Bennett*, 32 W. R. 550. A guardian *ad litem* cannot be compelled to answer interrogatories: *Ingram* v. *Little*, 11 Q. B. D. 251: 31 W. R. 858. Interrogatories may be exhibited in a patent action: *Birch* v. *Mather*, 22 Ch. D. 629: 31 W. R. 362; or on a petition to revoke a patent under the Patents, Designs, and Trademarks Act, 1883 (46 & 47 Vict. c. 57), s. 26; *Re Haddan's Patent*, 33 W. R. 96.

(*c*) *Security for costs of interrogatories.*—See R. S. C. Ord. XXXI. 25, 26; and note (*a*), *supra*; S. C. Funds Rules, 1884, r. 30 (*c*); App. No. 7. The security will only be dispensed with where there is genuine inability to give it: *Henderson* v. *Ripley*, W. N. (1884), 85; *Burr* v. *Hubbard*, W. N. (1883), 198; *In re Smith, Smith* v. *Went*, W. N. (1884), 81: 32 W. R. 512. The deposit cannot be dispensed with by consent: *Hall* v. *Liardet*, W. N. (1883), 175; *Aste* v. *Stumore*, 13 Q. B. D. 326: 32 W. R. 219; nor because the parties have already given security for the costs of the action: *Compagnie du Pacifique* v. *Guano Co.*,

1819.
Paymaster's direction for lodgment.

To the Agent of the Bank of England,
Law Courts Branch.

Please receive the above sum, and place it to the account of the Paymaster-General for and on behalf of the Supreme Court of Judicature.

(*Signature*) ——.

1820.
Bank certificate of receipt.

To the Assistant Paymaster-General.

Bank of England, ——, 188—.

The above stated sum has been this day received.

For the Governor and Company of the Bank of England,
(*Signature*) ——.

[Entd. No. ——.]

1821.
Request for payment of money lodged as security for costs (*d*).

(*Short title and reference to the record.*)

Ledger credit to which the money is standing. } ——.

To the Assistant Paymaster-General.

I hereby request that payment of the sum of £——, paid in as security for costs in the above action, may be made to me [*or*, my solicitor] in pursuance of the certificate of the Taxing Officer [*or*, Chief Clerk], herewith lodged, as authority for such payment.

(*Name and address of applicant.*)
——, 188—.

1822.
Certificate as to party entitled to money lodged to a security for costs account (*e*).

(*Short title and reference to the record.*)

Ledger credit to which money is standing. } —— *v.* ——.

In pursuance of Rule 44 (C.) of the Supreme Court Funds Rules, 1884, and Rule 27 a of Order XXXI. of the Rules of the Supreme Court, 1883, I certify that (*Here insert the names of the person or persons to be paid, as thus:* the plaintiff—*or*, the defendants—*or*, Mr. X. Y., the solicitor (*f*)

W. N. (1883), 166. The deposit is payable in respect of each set of interrogatories: *Smith* v. *Reed*, W. N. (1883), 196. It is security for the general costs of the action: *Jubb* v. *Bibbs & Hill*, W. N. (1883), 208. As to payment out of the deposit, see R. S. C. Ord. XXXI. 27, 27*a*; R. S. C. Oct. 1884, 1; S. C. Funds Rules, 1884, 44 (*c*), as amended by S. C. Funds Rules, Oct. 1884; and note (*a*), *supra*.

(*d*) See R. S. C. Ord. XXXI. 27, 27*a*; R. S. C. Oct. 1884, 1; S. C. Funds Rules, 1884, 44 (*c*), as amended by S. C. Funds Rules, Oct. 1884; App. No. 11 (*c*); and note (*a*), *supra*.

(*e*) See R. S. C. Ord. XXXI. 27*a*; R. S. C. Oct. 1884, 1; and note (*a*), *supra*.

(*f*) When the money is to be paid to the solicitor of either party, the written

for the plaintiff—*or*, defendant—*or as may be*), is [*or*, are] entitled to payment of the sum of £—— lodged in Court on the —— day of ——, 188—, by or on behalf of the plaintiff [*or*, defendant] to a security for costs account under Rule 26 of Order XXXI. of the Rules of the Supreme Court, 1883.

Dated the —— day of ——, 188—.

(*Signature of Taxing Officer or Chief Clerk.*)

(*Title of office* ——.)

1823.

Summons for leave to deliver interrogatories to member or officer of corporation, &c. (*g*). [Dan. Pr. 1809—1812.]

Formal parts : see Form 43 *or* 1077.

on the part of the plaintiff [*or*, defendant], that he may be at liberty on or before the —— day of ——, 188—, to deliver interrogatories in writing for the examination of A. B., the secretary of the defendants, the —— Company, Limited [*or as may be*]. And that the costs of this application may be costs in the action.

1824.

Interrogatories (*h*). [Dan. Pr. 1813.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . Plaintiff,
and
C. D., E. F., and G. H., Defendants.

Interrogatories on behalf of the above-named plaintiff [*or as may be*], for the examination of the above-named defendants E. F. and G. H. [*or*, of A. B., the secretary of the defendants, the —— Company, Limited—*or as may be*].

Here set forth the interrogatories in numbered paragraphs, as thus :

1. Did not, *&c.*
2. Has not, *&c.*

Note.—The defendant E. F. is required to answer the interrogatories numbered ——.

The defendant G. H. is required to answer the interrogatories numbered —— (*i*).

---

authority of such party to that effect must be produced to the Taxing Officer, Master, or Chief Clerk by whom the certificate is issued : note to Official Form.

(*g*) See R. S. C. Ord. XXXI. 5 ; and note (*a*), *supra ;* Wilson, 304, 305 ; Ann. Pr. 318, 319. As to interrogating an ordinary member of the company, see *Berkeley* v. *The Standard Discount Co.*, 9 Ch. D. 643. As to administering interrogatories to several officers of a corporation, see *Compagnie Financiere du Pacifique* v. *Peruvian Guano Co.*, 28 Sol. J. 410.

(*h*) See R. S. C. Ord. XXXI. 4 ; App. B., No. 6 ; and note (*a*), *supra.*

(*i*) See R. S. C. Ord. XXXI. 1 ; and note (*a*), *supra.*

1825.
Summons to set aside or strike out interrogatories (*j*). [Dan. Pr. 1815.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the interrogatories delivered by the defendant [*or as may be*], in this action for the examination of the plaintiff [*or as may be*], may be set aside, on the ground that they have been exhibited unreasonably or vexatiously [*or*, that the interrogatories delivered herein and numbered respectively 3 and 4 [*or as may be*] may be struck out, on the ground that they are (*State grounds relied upon, as thus:* prolix, oppressive, unnecessary, or scandalous)]. And that the said defendant [*or as may be*] may be ordered to pay to the plaintiff [*or as may be*], his costs occasioned by the delivery of the said interrogatories and of this application.

1826.
Notice of motion or summons to have discovery postponed until after issue or question determined (*k*). [Dan. Pr. 1828.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the defendant [*or as may be*], that

the following questions or issues of fact [*or*, partly of fact and partly of law], may be tried before (*Here insert one of the modes in which a question arising in an action may be tried*), that is to say, whether (*Here state concisely the questions or issues in dispute, upon the determination of which the right to the discovery sought, depends*); *or*,

issues may be framed for the purpose of trying whether (*Here state the questions or issues*), and that such issues may be tried before (*Here state mode of trial proposed*); *or*,

a special case may be prepared for the purpose of obtaining the opinion of the Court, whether (*Here state the question in dispute*), and that such special case may be set down to be argued before the Court; *or*,

the following question of law may be set down to be argued before the Court, viz., whether (*Here state the question in dispute*).

And that the time for the defendant [*or as may be*] to answer the interrogatories delivered in this action by the plaintiff [*or as may be*], for the examination of the said defendant [*or as may be*], may be enlarged, until after the said questions or issues shall have been determined. And that the said defendant [*or as may be*] may then be at liberty to make such application with respect to the said interrogatories as he may be advised. And that the costs of this application may be costs in the action.

(*j*) See R. S. C. Ord. XXXI. 7; and note (*a*), *supra;* 1 Seton, 146; Wilson, 307; Ann. Pr. 319, 320. For form of order, see 2 Seton, 1633, Nos. 5, 6. Interrogatories which are, as a whole, vexatious or unreasonable, may be struck out altogether: *Cawley* v. *Burton*, 32 W. R. 33. A Judge has a discretion to disallow interrogatories which would not facilitate proof, or save expense: *Grumbrecht* v. *Parry*, 32 W. R. 203, 558 (C. A.). An objection to answer on the ground that the answer might tend to criminate must be taken in the affidavit in answer: *Harvey* v. *Harvey*, W. N. (1884), 232. An objection that certain of the interrogatories have been exhibited unreasonably and vexatiously must be taken by the affidavit in answer: *McIlroy* v. *Duncan*, W. N. (1884), 48. As to when interrogatories as to documents will be disallowed: see *Robinson* v. *Budgett*, W. N. (1884), 94; *Jacobs* v. *Great Western Railway Co.*, W. N. (1884), 33.

(*k*) See R. S. C. Ord. XXXI. 20; and note (*a*), *supra;* 1 Seton, 144; Wilson, 314; Ann. Pr. 357.

Section II.—Affidavits in Answer to Interrogatories.

(*Dan. Pr.*, 1816—1830, ccccxviii., ccccxix.)

1827.

Summons for time to answer interrogatories (*l*). [Dan. Pr. 1826.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant [*or as may be*], that he may have —— days further time to answer the interrogatories delivered by the plaintiff [*or as may be*], for the examination of the said defendant [*or as may be*] (*If the time has already expired, add:* notwithstanding the time limited for so doing has already expired). And that the costs of this application may be costs in the action.

1828.

Answer to interrogatories (*m*) [Dan. Pr. 1826.]

(*Title and reference to the record: as in* Form 1824.)

The answer of the above-named defendant, E. F. [*or as may be*], to the interrogatories for his examination delivered by the above-named plaintiff [*or as may be*] (*n*).

In answer to the said interrogatories, I, the above-named defendant, E. F., make oath and say as follows:—

1. }
2. } (*Here set forth the answers to the interrogatories, in paragraphs*
3. } *numbered consecutively.*)

4. I object to answer the interrogatories numbered ——, on the ground that (*Here state the grounds on which the deponent objects to answer, verifying such grounds* (*o*)).

(*l*) As to time for answering interrogatories, see R. S. C. Ord. XXXI. 8; and note (*a*), *supra*. For form of order, see 2 Seton, 1633, No. 4.

(*m*) See R. S. C. Ord. XXXI. 8; App. B., No. 7; and note (*a*), *supra*. As to answers generally, see 1 Seton, 143—145; Ann. Pr. 321, 322. As to printing the affidavit, see R. S. C. Ord. XXXI. 9: and note (*a*), *supra*; R. S. C. Ord. LXVI. 3.

(*n*) If two or more defendants join in the answer, it is headed "The joint and several answer." If a defendant has been wrongly described in the writ, he must correct the mistake in the part of the answer following the title, as thus: "The answer of the above-named defendant John Jones (in the writ by mistake called William Jones)": see Dan. Pr. 1823.

(*o*) See R. S. C. Ord. XXXI. 6; and note (*a*), *supra*; 1 Seton, 144; Wilson, 305, 306. As to resisting discovery, see Dan. Pr. 1852—82; 1 Seton, 156—67; Morgan, 382—384; and see as to the ground for resisting: (1), where questions are inquisitorial, 1 Seton, 160; (2), criminating questions, Dan. Pr. 1852—58; *Harvey* v. *Harvey*, W. N. (1884), 232: 1 Seton, 160, 161; (3), that defendant has in conscience an equal right with plaintiff, Dan. Pr. 1858; (4), irrelevancy, Dan. Pr. 1858—64; 1 Seton, 161, 162; (5), matters relating exclusively to the case of the party answering, Dan. Pr. 1876—80; *Roberts* v. *Oppenheim*, 26 Ch. D. 724: 32 W. R. 654; *Bidder* v. *Bridges*, W. N. (1884), 250: 33 W. R. 272; 1 Seton, 162—64; (6), communications with solicitor or counsel, Dan. Pr. 1864—75; 1 Seton, 164—66; (7), communications with agents, &c., Dan. Pr. 1865—68; 1 Seton, 166, 167; (8), that a third party has an interest in the discovery, and ought not to be prejudiced, Dan. Pr. 1881—82.

1829.
Summons for liberty to file a supplemental affidavit in answer to interrogatories. [Dan. Pr. 1826, 1827.]

Formal parts: see Form 43 *or* 1077.
on the part of the defendant [*or as may be*], that he may be at liberty on or before the —— day of ——, 188—, to file a supplemental affidavit in answer to the interrogatories delivered by the plaintiff [*or as may be*], for the purpose of (*State what; as thus:* correcting statements inadvertently made in his affidavit filed in answer to the said interrogatories on the —— day of ——, 188—, that—*Here specify the statements which it is desired to correct*).

1830.
Summons for order to answer interrogatories (*p*). [Dan. Pr. 1827.]

Formal parts: see Form 43 *or* 1077.
on the part of the plaintiff [*or as may be*], that the defendant [*or as may be*], may be ordered, within —— days after service of the order to be made upon this application, to make and file a full and sufficient affidavit in answer to the interrogatories [*or*, to the interrogatories numbered —— of the interrogatories] delivered by the plaintiff [*or as may be*], for the examination of the said defendant [*or as may be*]. And that the said defendant [*or as may be*] may be ordered to pay the costs of this application.

1831.
Summons for party to attend and be examined *vivâ voce* (*q*). [Dan. Pr. 1828.]

Formal parts: see Form 43 *or* 1077.
on the part of the plaintiff [*or as may be*], that the defendant E. F. [*or as may be*] may be ordered to attend before his lordship Mr. Justice ——, the Judge to whom this action is assigned [*or*, before G. M., esquire, one of the examiners—*or*, before the examiner in rotation—of this Court], at such time and place, or times and places, as shall be appointed by notice in writing, for the purpose of being examined *vivâ voce* upon the interrogatories delivered by the plaintiff [*or as may be*] for the examination of the said defendant [*or as may be*]. And that the said defendant [*or as may be*] may be ordered to pay the costs of this application.

1832.
Summons to consider sufficiency of answer, and for order to answer further (*r*). [Dan. Pr. 1827.]

Formal parts: see Form 43 *or* 1077.
on the part of the plaintiff [*or as may be*], to consider the sufficiency of the answer of the defendant —— [*or as may be*], filed the —— day of

(*p*) See R. S. C. Ord. XXXI. 11; and note (*a*), *supra*. For forms of order, see 2 Seton, 1632, Nos. 2, 3. An order to answer interrogatories must be made, under this rule, before the party interrogating can proceed by way of attachment, or otherwise, as provided by R. S. C. Ord. XXXI. 21; and see note (*a*), *supra*. As to service of the order, see R. S. C. Ord. XXXI. 22. The order must bear the indorsement required by R. S. C. Ord. XLI. 5, in order to found attachment: *Hampden* v. *Wallis*, 26 Ch. D. 746: 32 W. R. 808.

(*q*) See R. S. C. Ord. XXXI. 11; and note (*a*), *supra*. The examination must be confined to the interrogatories: *Litchfield* v. *Jones*, W. N. (1884), 218: 33 W. R. 251.

(*r*) See R. S. C. Ord. XXXI. 10; and note (*a*), *supra*. Under this rule the application may be made by motion or summons; but it seems that the proper course is to apply by summons: Dan. Pr. 1830. As to how far an answer claiming privilege is conclusive, see *Lyell* v. *Kennedy*, 27 Ch. D. 1.

——, 188—, to the interrogatories numbered —— of the interrogatories delivered by the plaintiff [*or as may be*] for the examination of the said defendant [*or as may be*]. And that the said defendant [*or as may be*] may be ordered, within —— days after service of the order to be made upon this application, to make and file a full and sufficient affidavit in further answer to the said interrogatories numbered ——. And that the said defendant [*or as may be*] may be ordered to pay the costs of this application.

1833.

Summons for order to answer, notwithstanding objection (*s*). [Dan. Pr. 1827.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that, notwithstanding the objections raised by the defendant —— [*or as may be*], by his affidavit, filed the —— day of ——, 188—, to answer the interrogatories numbered —— of the interrogatories delivered by the plaintiff [*or as may be*] for the examination of the said defendant [*or as may be*], the said defendant —— [*or as may be*] may be ordered, within —— days after service of the order to be made upon this application, to make and file a full and sufficient affidavit in answer to the said interrogatories; and that the said defendant [*or as may be*] may be ordered to pay the costs of this application.

1834.

Summons to dismiss action for non-compliance of plaintiff with order to answer (*t*). [Dan. Pr. 1829.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant that, the plaintiff having failed to comply with the order made in this action, dated the —— day of ——, 188—, to answer the interrogatories [*or*, the interrogatories numbered —— of the interrogatories] delivered by the said defendant for the examination of the said plaintiff, this action may be dismissed

If there are other defendants than the applicant, add: as against the said defendant

for want of prosecution, with costs to be paid by the said plaintiff to the said defendant.

1835.

Summons to strike out defence for non-compliance of defendant with order to answer (*u*). [Dan. Pr. 1829.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff that, the defendant [*or*, the defendant ——] having failed to comply with the order made in this action, dated the —— day of ——, 188—, to answer the interrogatories [*or*, the interrogatories numbered —— of the interrogatories] delivered by the plaintiff

(*s*) See R. S. C. Ord. XXXI. 11; and note (*a*), *supra*. As to the duty of the Court under this rule, see *Lyell* v. *Kennedy*, 27 Ch. D. 1.

(*t*) See R. S. C. Ord. XXXI. 21; and note (*a*), *supra*. For form of order, see 2 Seton, 1541, No. 2. An order will only be made when the Court is satisfied that the plaintiff is not acting *bonâ fide*: Dan. Pr. 1829—30. An application under rule 21 can only be made where there has been an order to answer the interrogatories. The provision being a highly penal one, the power will only be exercised in the last resort: Dan. Pr. 1830.

(*u*) See R. S. C. Ord. XXXI. 21; and note (*a*), *supra*; 1 Seton, 144; see also note (*t*), *supra*. For a case in which an order to strike out defence was set aside on terms, see *Gibson* v. *Sykes*, 28 Sol. J. 533.

for the examination of the said defendant, the statement of defence delivered by the said defendant on the —— day of ——, 188—, may be struck out, and that the said defendant may be placed in the same position as if he had not defended this action. And that the said defendant may be ordered to pay the costs of this application.

(*Same as* Forms 993 *to* 1001.)

1836.
Proceedings to attach party for non-compliance with order (*w*).
[Dan. Pr. 1828, 1829.]

Section III.—Production of Documents (*a*).

(*Dan. Pr.*, pp. 1830—1851, ccccxix.—ccccxx.)

(*a*) *Production of Documents.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Application for discovery.—Any party may, without filing an affidavit, apply for an order directing any other party to make discovery on oath of the documents which are or have been in his possession or power, relating to any matter in question in the cause or matter; on hearing such application the Court or Judge may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at that stage, or make such order, either generally or limited to certain classes of documents, as may, in their or his discretion, be thought fit.	XXXI. 12.
Form of affidavit of discovery.—The affidavit to be made by a party against whom such order has been made, must specify which, if any, of the documents therein mentioned, he objects to produce, and must be in the prescribed form (App. B. No. 8)	,, 13.
Production.—At any time, during the pendency of a cause or matter, production may be ordered by any party thereto, upon oath, of such of the documents in his possession or power, relating to any matter in question, as the Court or Judge shall think right	,, 14.
Inspection of documents referred to in pleadings, &c.—Every party may, at any time, by notice in writing, give notice to any other party, in whose pleadings or affidavits reference is made to any document, to produce the same for inspection: any party not complying with such notice will not afterwards be at liberty to put any such document in evidence unless he satisfies the Court or a Judge that it relates only to his own title, *he being a defendant*, or that he had some other sufficient cause or excuse for not complying with the notice. The notice must be in the prescribed form (App. B. No. 9)	,, 15, 16.
Time for inspection.—The party to whom such notice is given, must, within *two days* from receipt thereof, if all the documents have been set forth in an affidavit filed under r. 13 (see *supra*), or if otherwise, within *four days*, deliver to the party giving the same, a notice stating a time within *three days* for inspection at the office of his solicitor, or, in the case of bankers' books or other books of account, or books in constant use for the purposes	

(*w*) See R. S. C. Ord. XXXI. 21; and note (*a*), *supra*. As to service of the order, *Ibid.*, 22. The order must bear the indorsement required by R. S. C. Ord. XLI. 5: *Hampden* v. *Wallis*, 26 Ch. D. 746: 32 W. R. 808; and with the notice of motion for attachment must be served a copy of the affidavit intended to be used on the application: R. S. C. Ord. LII. 4; *Litchfield* v. *Jones*, 25 Ch. D. 64.

ORDER.

of any trade or business, at their usual place of custody, and stating which he objects to produce, and on what ground. The notice must be in the prescribed form (App. B. No. 10) . . XXXI. 17

Order for inspection.—If the party served with notice omits to give notice of a time for inspection, or objects to give inspection, or offers inspection elsewhere than at the office of his solicitor, the Judge may make an order for inspection in such place and in such manner as he may think fit. Except in the case of documents referred to in the pleadings or affidavits of the opposite party, or disclosed in his affidavit of documents, such application must be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them, and that they are in the possession or power of the other party . . . . . ,, 18.

Inspection of Court rolls.—An order upon the lord of a manor to allow limited inspection of the Court rolls may be made on the application of a copyhold tenant supported by an affidavit that he has applied for inspection, and that it has been refused ,, 19.

Premature discovery.—If the party from whom discovery or inspection is sought objects to the same, or any part thereof, the Court or a Judge may, if satisfied that the right to discovery or inspection depends on the determination of any issue or question in dispute, or that for any other reason it is desirable that any such issue or question in dispute should be determined before deciding on the right to the discovery or inspection, order such issue or question to be determined first, and reserve the question as to the discovery or inspection . ,, 20.

Non-compliance with order for discovery.—If any party fails to comply with any order for discovery or inspection of documents, he is liable to attachment; and he is, if a *plaintiff*, liable to have his action dismissed for want of prosecution, and, if a *defendant*, to have his defence, if any, struck out, and to be placed in the same position as if he had not defended . . . ,, 21.

Service of order on solicitor.—Service of an order for discovery or inspection on the solicitor of any party is sufficient to found an application for attachment, but the party against whom such application is made may show in answer thereto that he has had no notice or knowledge of the order . . . . ,, 22.

Attachment of solicitor.—A solicitor served with an order against any party for discovery or inspection, who neglects without reasonable excuse to give notice thereof to his client, is liable to attachment . . . . . ,, 23.

Security for costs of discovery.—In every cause or matter, the costs of discovery are to be secured in the first instance by the party seeking such discovery, and will be allowed as part of his costs where, and where only, such discovery appears to the Judge at the trial, or to the Court or Judge, or to the taxing officer, to have been reasonably asked for . . . . . ,, 25.

Mode of giving security.—Any party seeking discovery (otherwise than by interrogatories), must, before making the application for discovery, pay into Court to "Security for Costs Account" the sum of £5, and may be ordered to pay such additional sum as the Court or a Judge directs. A copy of the receipt for such payment into Court must be served with the order for discovery, and the time for making discovery will commence from the date of such service. The party from whom discovery is sought will not be required to make discovery until the payment has been made . . . . . ,, 26.

Final disposition of monies to "Security for Costs Account."—The amount will, after the final disposal of the cause or matter, be paid out to the party who paid it in, on his request, or to his solicitor on his written authority, if the costs are adjudged to him, but if ordered to pay costs the amount will be subject to a lien for the costs ordered to be paid to any other party . . ,, 27.

ORDER.

Certificate for payment out of deposit.—If, after final disposal of a cause or matter, no taxation of costs is required, the Taxing Officer or Chief Clerk may, either by consent, or on being satisfied that a party who has lodged money to "Security for Costs Account" is entitled to have the same paid out, give a certificate to that effect, which will have the same effect as an order. (See R. S. C. Oct. 1884, 1; S. C. Funds Rules, Oct. 1884, substituted for S. C. Funds Rules, 1884, r. 44 (*c*).) . . XXXI. 27*a*.

Discovery against sheriff.—In any action against or by a sheriff in respect of any matters connected with the execution of his office, the Court or Judge may order that the affidavit of discovery be made by the officer actually concerned . . . ,, 28.

Office copy of affidavit of discovery.—It is not necessary to take an office copy of an affidavit of discovery of documents, and the copy delivered by the party filing may be used against him . LXV. 27(54).

As to production and inspection of documents, see 1 Seton, 146—168; Wilson, 308—313; Ann. Pr. 323—335; Chitty's Forms, 275—284; Chitty's Arch. 1155—1175.

1837.

Summons for affidavit as to documents, and production thereof (*b*). [Dan. Pr. 1832.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff (*c*); *or*,

of the defendant A. B. (*d*); *or*,

of C. D., who has been served with a notice issued by the defendant A. B., under the Rules of the Supreme Court, Ord. XVI., rule 48, and has appeared thereto; *or*,

of (the defendant) C. D., who has been served with a counterclaim of the defendant A. B. in this action; *or*,

of A. B., who is attending the proceedings under the judgment dated the —— day of ——, 188—; *or*,

of A. B., who claims to be a creditor upon the estate of C. D., the testator in the judgment dated the —— day of ——, 188—, named (*e*); *or as may be*;

that the defendant A. B.; *or*,

that the defendants A. B., C. D., and E. F. (*f*); *or*,

that the plaintiff; *or*,

that C. D., who has been served with a notice (*&c.; as above*); *or*,

that (the defendant) C. D., who has been served with a counterclaim (*&c.; as above*); *or*,

that A. B., who is attending (*&c.; as above*); *or*,

that A. B., who claims to be a creditor (*&c.; as above*);

may be ordered, within —— days after service of the order to be made hereon (*g*), to make and file a full and sufficient affidavit,

(*b*) See R. S. C. Ord. XXXI. 12; and note (*a*), *supra*. For forms of order, see 1 Seton, 133—135, Nos. 1—6; R. S. C. App. K., No. 17.

(*c*) As a rule, a plaintiff is not entitled to an order for discovery until after delivery of statement of claim: Dan. Pr. 1833; 1 Seton, 148.

(*d*) A defendant is not entitled to discovery until after delivery of defence: Dan. Pr. 1833; *British and Foreign Contract Co.* v. *Wright*, 32 W. R. 413.

(*e*) See Dan. Pr. 1832, 1833, note (*c*); 1 Seton, 139, No. 18.

(*f*) There is no objection to include in one summons applications against several parties, though represented by separate solicitors: Dan. Pr. 1834, note (*l*). For forms of order, see 1 Seton, 134, 135, Nos. 4, 5.

(*g*) Service of the order on the solicitor of the party will be sufficient service: R. S. C. Ord. XXXI. 22; and note (*a*), *supra*. In order to found attachment,

If the application is made against a corporation or body of persons, say: to file a full and sufficient affidavit: to be made by ——, their secretary [*or as may be*] (*h*);

stating whether he has or has had in his possession or power

If the application is made against several persons, say: stating whether they or either (or any) of them have or have had or has or has had in their or his possession or power (*i*)

If the application is made against a corporation or body of persons, say: stating whether the said —— Company, Limited [*or as may be*], have or have had in their possession or power (*j*)

any and (if any) what documents relating to the matters in question in this action; *or*,

relating to the counter-claim set up by the defendant A. B. in this action; *or*,

relating to the said claim made by the said A. B. against the estate of the said testator C. D. (*k*);

and accounting for the same. And that the said (*Here insert the description of the party or parties against whom the application is made, as above*) may be ordered at all seasonable times, upon reasonable notice, to produce at the office of his solicitor, Mr. ——, situate at (*State where*) (*l*), the documents which by such affidavit shall appear to be in his [*or*, their] possession or power, except such of them, if any, as he [*or*, they] may by such affidavit object to produce; and that the applicant, his solicitor and agent, may be at liberty to inspect and peruse the documents so produced, and to take copies and extracts therefrom (*m*), as the applicant shall be advised, at his expense. And that the (*party or parties against whom the application is made*) may be ordered to produce the said documents upon any examination of witnesses in this action, and at the trial thereof, as the applicant shall require. And that the applicant may be at liberty to make such further application as to all or any of the documents mentioned in such affidavit, as he may be advised.

---

the order must be endorsed as prescribed by R. S. C. Ord. XLI. 5: *Hampden* v. *Wallis*, 26 Ch. D. 746: 32 W. R. 808.

(*h*) See Dan. Pr. 1834; 1 Seton, 150; and compare R. S. C. Ord. XXXI. 5. For form of order, see 1 Seton, 135, Nos. 6, 7.

(*i*) See 1 Seton, 134, No. 4.

(*j*) *Ibid.*, Nos. 6, 7.

(*k*) See Dan. Pr. 1833, note (*c*).

(*l*) As to the place for inspection, see Dan. Pr. 1833, 1846, 1847; 1 Seton, 154. The place for production may be varied by subsequent order: *Prestney* v. *Mayor of Colchester*, 24 Ch. D. 376: 31 W. R. 414; S. C. 31 W. R. 757. The place for production is purely within the discretion of the Judge of first instance, and will not be interfered with by the Court of Appeal: *Bustros* v. *Bustros*, 30 W. R. 374. Production may be ordered to take place at the office of a District Registrar: 36 & 37 Vict. c. 66, s. 66; or the documents may be ordered to be brought into Court: Dan. Pr. 1834; 1 Seton, 133, No. 2. 135, No. 5.

(*m*) See 1 Seton, 133, No. 1: 134, No. 4. The party taking a copy or extract from documents in the possession of another party, has to pay for the same at the rate of 4*d.* per folio: R. S. C. Ord. LXV. 27 (18).

1838.
Summons to extend time for filing affidavit as to documents (*n*). [Dan. Pr 1834.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be: see* Form 1837], that the time limited by the order dated the —— day of ——, 188—, for the applicant to make and file an affidavit as to documents may be (further) enlarged to the —— day of ——, 188—. And that the costs of this application may be costs in the action.

(*Same as* Forms 1818 *to* 1822.)

1839.
Proceedings relating to paying deposit into Court to "Security for costs account," and to obtaining the same out of Court (*o*).

1840.
Affidavit admitting the possession of documents (*p*). [Dan. Pr. 1836.]

Formal parts: see Form 6 *or* 8.

1. I [*or*, We—*or*, The above-named defendants, the —— Company, Limited—*or as may be*] have in my [*or*, our—*or*, their] possession or

(*n*) The time is limited by the order for discovery. The time runs in the long vacation: R. S. C. Ord. LXIV. 5; but may be enlarged by the Court or a Judge, and that, notwithstanding the previous expiration of the time allowed: *Ibid.*, r. 7.

(*o*) See R. S. C. Ord. XXXI. 25—27; note (*a*), *supra;* and see note (*c*) to Form 1818 for cases decided on these rules. In the Chancery Division it is the practice to require the receipt for the deposit to be produced at the time the summons for discovery is issued. Where an order was made for discovery by five co-plaintiffs, only one deposit was required to be made by the applicant: *Campbell* v. *Lord Poulett and Others*, W. N. (1884), 48.

(*p*) *Affidavit of documents.*—See R. S. C. Ord. XXXI. 13; App. B., No. 8; and note (*a*), *supra.* This form should be adhered to, and only varied in so far as may be necessary to meet the circumstances of the case; it "is the right form, and is intended to be the common form. An affidavit of documents is intended now to be exhaustive, and the form given in the Act is so:" per Lindley, J., *Anon.*, W. N. (1876), 39, 40. The paragraphs numbered 2, 3, and the sub-division of the first schedule are necessary only where the party making the affidavit claims privilege for any of his documents; the paragraphs numbered 4, 5, 6, and the second schedule are necessary only where the party has parted with documents relating to the matters in question. The affidavit must specify all the documents which the deponent has in his possession or power, relating to the matters in question, even though he claim privilege for them; but any identification of documents which is sufficient to enable the Court to order their production is sufficient: *Taylor* v. *Batten*, 4 Q. B. D. 85: 27 W. R. 106; *Fortescue* v. *Fortescue*, 24 W. R. 945; *Taylor* v. *Oliver*, 34 L. T. 902. As to what has been held to be a sufficient description, see Dan. Pr. 1836; 1 Seton, 149, 150. An affidavit oppressive in length has been ordered off the file: *Walker* v. *Poole*, 21 Ch. D. 835; *Hill* v. *Hart Davis*, 26 Ch. D. 470. The deponent cannot be cross-examined on this affidavit: Dan. Pr. 1839; and note (*k*); 1 Seton, 149; nor can evidence be adduced to contradict it: Dan. Pr. 1839. The affidavit is final and conclusive, unless something appears in the affidavit or the schedule thereto which enables the Court to say they cannot rely upon the affidavit: *Taylor* v. *Batten*, 4 Q. B. D. 85: 27 W. R. 106; *Lyell* v. *Kennedy*, 27 Ch. D. 1.

power the documents relating to the matters in question in this action set forth in the first and second parts of the first schedule hereto.

2. I [*or*, We—*or*, The said defendants, the —— Company, Limited—*or as may be*] object to produce the said documents set forth in the second part of the said first schedule hereto.

3. That (*Here state upon what grounds the objection is made, and verify the facts, as far as may be*) (*q*).

4. I [*or*, We—*or*, The said defendants, the —— Company, Limited] have had, but have not now, in my [*or*, our—*or*, their] possession or power the documents relating to the matters in question in this action set forth in the second schedule hereto.

5. The last mentioned documents were last in my [*or*, our] possession or power [*or*, were last in the possession or power of the said —— Company, Limited] on (*State when*).

6. That (*State what has become of the last mentioned documents, and in whose possession they now are*).

7. According to the best of my [*or*, our] knowledge, information, and belief, I [*or*, we—*or*, the said —— Company, Limited], have not now, and never had in my [*or*, their], possession, custody, or power

Where there are several deponents, say: in the possession, custody, or power of us, or either [*or*, any] of us,

or in the possession, custody, or power of my [*or*, their] solicitors or agents, solicitor or agent,

Where there are several deponents, say: of any solicitors or agents, solicitor or agent for us, or either [*or*, any] of us,

or in the possession, custody, or power of any other persons or person on my [*or*, their] behalf,

Where there are several deponents, say: on behalf of us or either [*or*, any] of us,

any deed, account, book of account, voucher, receipt, letter, memorandum, paper, or writing, or any copy of or extract from any such document, or any other document whatsoever, relating to the matters in question in this action, or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the said first and second schedules hereto.

The first schedule above referred to.

First part.

Second part.

The second schedule above referred to.

(*q*) See R. S. C. Ord. XXXI. 13; and note (*a*): *supra*. Notwithstanding the objection to produce the documents, they must be described with sufficient distinctness to enable the Court to order production if the objection should be overruled: Dan. Pr. 1836; 1 Seton, 150; and note (*a*), *supra*. The affidavit must also state, clearly and distinctly, the reasons or objections against production, and must verify the facts upon which such reasons or objections depend: see Form 8 in App. B. to the Rules of the Supreme Court. As to the grounds on which documents may be protected from production, see Dan. Pr. 1852—1882; 1 Seton, 156—168; Wilson, 319—322; Ann. Pr. 327—334; and see note (*o*) to Form 1828.

1841.

Affidavit denying the possession of any documents. [Dan. Pr. 1836.]

Formal parts: see Form 6 *or* 8.

1. According to the best of my [*or*, our] knowledge, information, and belief (*Continue as in paragraph* 7 *of* Form 1840, *down to* relative to such matters or any of them).

1842.

Summons to consider sufficiency of affidavit as to documents (*r*). [Dan. Pr. 1838.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be: see* Form 1837], to consider the sufficiency of the affidavit of the defendant [*or as may be*], filed the —— day of ——, 188—, as to the possession of documents, pursuant to the order dated the —— day of ——, 188—. And that the said defendant [*or as may be*] may be ordered to pay the costs of this application.

1843.

Summons for further affidavit as to particular documents (*s*). [Dan. Pr. 1839.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be: see* Form 1837], that the defendant A. B. [*or as may be: see* Form 1837], may be ordered, within —— days after service of the order to be made upon this application, to make and file a further full and sufficient affidavit, stating whether he has or has had in his possession or power any, and (if any) which of the following documents relating to the matters in question in this action, and accounting for the same, that is to say (*Here describe, as precisely as possible, the documents as to which discovery is sought*).

1844.

Another form (*s*). [Dan. Pr. 1839.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be: see* Form 1837], that the defendant A. B. [*or as may be: see* Form 1837], may be ordered, within —— days after service of the order to be made upon this application, to make and file a further full and sufficient affidavit, stating whether he has or has had in his possession or power any, and (if any) what, documents relating to the matters in question in this action, and accounting for the same; and particularly the following documents,

(*r*) The application should only be in this form where the affidavit as to documents is insufficient in form. For form of order, see 1 Seton, 137, No. 11.

(*s*) A party cannot be cross-examined upon his affidavit as to documents: nor can evidence be adduced to contradict it; and if the party seeking discovery suspects that any documents have been kept back, his only course is to interrogate upon the point; but if there is anything in the affidavits or pleadings of the party making the affidavit as to documents, or in the documents mentioned in the affidavit, throwing discredit upon that affidavit, then, but not otherwise, the party seeking discovery may apply for an order requiring the other party to make a further affidavit as to the possession of the documents, which from his pleadings or affidavits appear to be in his possession: *Jones* v. *Montevideo Gas Co.*, 5 Q. B. D. 556: 28 W. R. 758; *Compagnie Financiere, &c.* v. *Peruvian Guano Co.*, 11 Q. B. D. 55: 31 W. R. 395; *Ponsonby* v. *Hartley*, W. N. (1883), 44; *Attorney-General* v. *Emerson*, 31 W. R. 191; *Robinson* v. *Budgett*, W. N. (1884), 94; *Lyell* v. *Kennedy*, 27 Ch. D. 1. For forms of order, see 1 Seton, 137, Nos. 12, 13.

that is to say (*Here describe, as precisely as possible, the documents as to which discovery is sought*).

1845.

Notice to produce documents for inspection (*t*). [Dan. Pr. 1840.]

Formal parts: see Form 37.

Take notice that the plaintiff [*or*, the defendant C. D.—*or as may be: see* Form 1837] requires you to produce for his inspection the documents referred to in (the —— paragraphs of) your statement of claim [*or*, of defence—*or as may be*] delivered on the —— day of ——, 188— [*or*, referred to in the affidavit of ——, filed in this action on the —— day of ——, 188—, and in the first and second parts of the first schedule thereto—*or as may be*].

(*Name and address of solicitor for party giving the notice.*)

To (*Name and address of solicitor for party to whom notice is given.*)

1846.

Notice of motion or summons to have inspection postponed until after issue or question determined (*u*).

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the defendant [*or as may be*], that (*Continue as in* Form 1826, *as to the trial of an issue of fact or law*). And that the inspection by the plaintiff [*or as may be*] of the documents referred to in his notice, dated the —— day of ——, 188—, may be postponed until after the said questions or issues shall have been determined. And that after the determination thereof either party may be at liberty to make such application as to an inspection of the said documents as he may be advised. And that the costs of this application may be costs in the action.

1847.

Summons for time to produce documents for inspection (*v*). [Dan. Pr. 1840.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant [*or as may be*], that the time allowed for the applicant to produce for the inspection of the plaintiff [*or as may be*] or his solicitor, the documents referred to in the notice given by the said plaintiff [*or as may be*], and dated the —— day of ——, 188—, may be (further) enlarged to the —— day of ——, 188—. And that the costs of this application may be costs in the action.

(*t*) See R. S. C. Ord. XXXI. 15; App. B., No. 9; and note (*a*), *supra*. A document mentioned in particulars is within the rule: *Cass* v. *Fitzgerald*, W. N. (1884), 18. Where privilege is claimed for a document and established, and such document is referred to in the pleadings, a *plaintiff* is not bound to produce it under this rule: *Roberts* v. *Oppenheim*, 26 Ch. D. 724: 32 W. R. 654. As to costs of notice and inspection, see R. S. C. Ord. LXV. 27 (17); as to copies of documents, *Ibid.* (18).

(*u*) See R. S. C. Ord. XXXI. 20; and note (*a*), *supra*.

(*v*) As to time for giving notice of appointment to inspect, see R. S. C. Ord. XXXI. 17; and note (*a*), *supra*. As to enlarging the time, see R. S. C. Ord. LXIV. 7.

1848.
Summons for leave to seal up irrelevant or privileged matter (*w*). [Dan. Pr. 1841.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant [*or as may be*], that he may be at liberty to seal up such parts of the documents referred to in the notice given by the plaintiff [*or as may be*] in this action, and dated the —— day of ——, 188—, as, according to an affidavit to be made by the said defendant, do not relate to the matters in question in this action [*or*, are privileged from production to the said plaintiff].

1849.
Affidavit of sealing up irrelevant matter. [Dan. Pr. 1841.]

Formal parts: see Form 43 *or* 1077.

1. *Identify the documents of which parts have been sealed up; as thus:* The two documents now produced and shown to me, and marked respectively A. and B. (*x*), are respectively the (*Describe them*), referred to in the —— paragraph of my statement of defence [*or as may be*] in this action [*or*, referred to in the first part of the first schedule to my affidavit filed in this action on the —— day of ——, 188—].

2. I have sealed up such parts of the said exhibited documents marked A. and B. as do not relate to the matters in question in this action [*or*, as are privileged from production to the plaintiff—*or as may be*].

3. *Verify the grounds on which the parts are sealed up; as thus:* No portion of the parts of the said documents sealed up relates to the matters in question in this action, or any of them [*or*, The parts of the said documents sealed up contain matter relating exclusively to my case in this action, and do not contain anything impeaching my case, nor anything forming or supporting the title or the case of the plaintiff, nor anything in any manner material to the plaintiff's case in this action (*y*) —*or as may be*].

1850.
Appointment to inspect documents (*z*). [Dan. Pr. 1840.]

Formal parts: see Form 37.

Take notice that the plaintiff [*or as may be*] can inspect the documents mentioned in his notice dated the —— day of ——, 188—

If the party giving the notice objects to produce any of his documents, say: except the documents mentioned in the schedule hereto (*z*),

at my office, situate at ——, on ——day next, the —— day of ——, 188—, between the hours of —— and —— o'clock.

The defendant C. D. [*or as may be*] objects to produce the documents mentioned in the schedule hereto on the ground that (*Here state the ground upon which the party objects to produce the documents* (*z*).

(*w*) See 1 Seton, 155, 156. For forms of order, see *Ibid.*, 134, No. 3 : 136, No. 10. The liberty to seal up will be included in the order for production, if it is claimed at the time such order is made. As to when sealing up will not be allowed, see *Re Pickering*, 25 Ch. D. 247 : 32 W. R. 511.

(*x*) For form of memorandum of exhibit, see Form 28. If the documents are numerous, it is desirable not to use the letters of the alphabet as exhibits or titles : see note (*ss*) to Form 28.

(*y*) See *Kettlewell* v. *Barstow*, L. R. 7 Ch. App. 686.

(*z*) See R. S. C. Ord. XXXI. 17 ; App. B., No. 10 ; and note (*a*), *supra*.

1851.

Notice refusing inspection (*zz*). [Dan. Pr. 1810.]

Formal parts: see Form 37.

Take notice that the defendant [*or as may be*] objects to give the plaintiff [*or as may be*] inspection of the documents mentioned in his notice dated the —— day of ——, 188—, on the ground that (*Here state the ground upon which the party objects to produce the documents* (*zz*)).

1852.

Summons for order for production for inspection (*a*). [Dan. Pr. 1841.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be: see* Form 1837] that

If so, add: notwithstanding the objection raised by the defendant A. B. [*or as may be*] by his affidavit, filed the —— day of ——, 188— [*or*, by his notice given in this action and dated the —— day of ——, 188—], to produce the documents hereinafter mentioned (*b*),

the defendant A. B. [*or as may be: see* Form 1837] may be ordered, at all seasonable times, upon reasonable notice, to produce at (*State where, as:* the office of Mr. D., his solicitor, situate at ——), the several documents mentioned in the —— paragraphs of the said defendant's statement of defence [*or as may be*] in this action [*or*, mentioned in the affidavit of the said defendant [*or as may be*] filed in this action on the —— day of ——, 188—, and in the first and second parts of the first schedule thereto], and thereby appearing to be in the possession or power of the said defendant [*or*, mentioned in the affidavit of ——, filed in this action on the —— day of ——, 188—, and in the schedule thereto, and thereby alleged to be in the possession or power of the said defendant—*or as may be*]. And that the applicant, his solicitors and agents,

If it is desired that the documents should be inspected by a special agent on behalf of the applicant, add: and also Mr. X. Y., of (*residence*), accountant [*or as may be* (*c*)],

may be at liberty to inspect and peruse the documents so produced, and to take copies and abstracts thereof and extracts therefrom, as the applicant shall be advised, at his expense (*d*). And that the said defendant A. B. [*or as may be*] may be ordered to produce the same documents upon any examination of witnesses in this action, and at

(*zz*) See R. S. C. Ord. XXXI. 17; App. B. No. 10; and note (*a*), *supra*.

(*a*) See R. S. C. Ord. XXXI. 18; and note (*a*), at p. 798. For form of order, see 1 Seton, 136, No. 8.

(*b*) For form of order directing production notwithstanding an objection, see 1 Seton, 136. No. 9; *Ibid.*, 139, No. 19.

(*c*) An order for production to a party, his solicitors, and agents, means only to the solicitors in the action, and persons professionally connected with them, or the general agents of the party, and does not compel production to an accountant or agent specially employed for the particular purpose of inspecting the documents; but, if necessary, an order will be made directing production to such a special agent: Dan. Pr. 1847. For forms of order, see 1 Seton, 138, Nos. 15, 16.

(*d*) See *Pratt* v. *Pratt*, 30 W. R. 837. As to costs of taking copies, see R. S. C. Ord. LXV. 27 (18).

the trial thereof, as the applicant shall require. And that the costs of this application may be costs in the action [*or*, And that the said defendant A. B. [*or as may be*] may be ordered to pay the costs of this application].

1853.
Affidavit in support (*e*). [Dan. Pr. 1841.]

Formal parts: see Form 6.

1. The application made by the summons in this action issued on the —— day of —— instant on behalf of the plaintiff [*or as may be*] is for the purpose of obtaining an order giving the said plaintiff liberty to inspect the documents mentioned in the schedule hereunder written.

2. All the said documents relate to the matters in question in this action, and are relevant to the questions to be decided at the hearing thereof.

3. All the said documents are in the possession or power of the defendant A. B. [*or as may be*].

4. *Show means of knowledge.*

The Schedule.

1854.
Summons for production for inspection, against two or more parties. [Dan. Pr. 1834, note (*e*).

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the defendant A. B. as to the several documents mentioned in the 5th and 6th paragraphs of his statement of defence in this action [*or as may be: see* Form 1852], and thereby appearing [*or*, alleged] to be in his possession or power, and the defendant C. D. as to the several documents mentioned (*&c.; as above*), and thereby appearing [*or*, alleged] to be in his possession or power, may respectively be ordered, at all seasonable times, upon reasonable notice, to produce the said documents at the places following, that is to say: as to the said documents in the possession or power of the said defendant A. B. at (*State where*), and as to the said documents in the possession or power of the said defendant C. D. at (*State where*). And that the applicant, his solicitors and agents, may be at liberty to inspect and peruse the documents so produced, and to take copies and abstracts thereof and extracts therefrom as the applicant shall be advised, at his expense. And that the said defendants A. B. and C. D. respectively may be ordered to produce the said documents respectively upon any examination of witnesses in this action and at the trial thereof, as the applicant shall require. And that the costs of this application may be costs in the action [*or*, And that the said defendants A. B. and C. D. may be ordered to pay the costs of this application].

(*e*) This affidavit is only necessary where it does not appear by the pleadings or affidavits of the party against whom the application is made, or from his affidavit of documents, that the documents of which inspection is sought are in his possession or power: R. S. C. Ord. XXXI. 18; and note (*a*), at p. 798.

1855.

Summons for inspection by transferee of the interest or liability of a party who before the transfer had obtained an order to inspect (*f*).

Formal parts : see Form 43 *or* 1077.

on the part of the plaintiff B., that he may be at liberty to have the same inspection of the documents mentioned or referred to in the order made in this action dated the —— day of ——, 188—, and the same power to take copies and abstracts thereof and extracts therefrom, as was given to the late plaintiff L., now a bankrupt, by the said order. And that the said plaintiff B., his solicitors and agents, may be at liberty, at all seasonable times, upon giving reasonable notice, to inspect the same documents, with the assistance of the said late plaintiff L. as his accountant. And that the costs of this application may be costs in the action.

1856.

Notice to produce documents at trial or on examination of witnesses.

Formal parts : see Form 37.

Take notice that you are hereby required, in pursuance of the order made in this action and dated the —— day of ——, 188— (*g*), to produce (*State where, as :* before his lordship Mr. Justice ——, at the trial of this action [*or*, before ——, esquire, an examiner of this Court], on ——day, the —— day of ——, 188—, at —— of the clock in the ——noon, upon an examination of witnesses in this action), the several documents mentioned or referred to in the said order dated the —— day of ——, 188— [*or*, the following documents mentioned or referred to in the said order dated the —— day of ——, 188—, that is to say : (*Here specify the documents required to be produced*)].

1857.

Summons for deposit of documents in Court, and for leave to inspect same (*h*). [Dan. Pr. 1834, 1848.]

Formal parts : see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be : see* Form 1837], that the defendant A. B. [*or as may be : see* Form 1837] may be ordered, within —— days after service of the order to be made upon this application, to produce to and leave at the Central Office of the Supreme Court of Judicature (*i*), with the Senior Master of the said Supreme Court [*or*, with the Registrar of the District Registry at ——], the several documents mentioned in the —— paragraphs of the said defendant's statement of defence [*or as may be*] in this action [*or*, mentioned in the affidavit of the said defendant [*or as may be*], filed in this action on the —— day of ——, 188—, and in the first and second parts of the first schedule thereto—*or as may be*], and thereby appearing to be in the possession or power of the said defendant [*or as may be*]. And that the applicant, his solicitors and agents, may be at liberty to inspect and peruse the documents so produced and left, and to take copies and abtracts thereof and extracts therefrom, as the applicant shall be advised, at his ex-

(*f*) For forms of order, see 1 Seton, 138, Nos. 15, 16.

(*g*) Order to produce.

(*h*) For forms of order, see 1 Seton, 133, No. 2 ; 135, No. 5 : 140, Nos. 20, 21.

(*i*) See R. S. C. Ord. LXI. 30. As to the mode of deposit, see Dan. Pr. 1849, note (*d*) ; Braithwaite's Pr. 506.

pense (*j*). And that the said documents may be produced by the said Master [*or*, by the Registrar of the District Registry at ——], upon any examination of witnesses in this action and at the trial thereof, as the applicant shall require. And that the costs of this application may be costs in the action.

1858.

Summons to extend time for making deposit (*k*).

Formal parts: see Form 43 *or* 1077.

on the part of the defendant A. B. [*or as may be*], that the time limited by the order dated the —— day of ——, 188—, for the applicant to deposit documents in Court may be (further) enlarged to the —— day of ——, 188—. And that the costs of this application may be costs in the action.

1859.

Memorandum on inspecting documents (*l*). [Dan. Pr. 1849.]

(*Short title and reference to the record.*)

For inspecting documents.

Dated —— day of ——, 188—.

(*Name and address of solicitor or party inspecting.*)

1860.

Memorandum bespeaking attendance of officer, on examination of witnesses or at trial, with documents deposited (*m*). [Dan. Pr. 1849.]

(*Short title and reference to the record.*)

For attendance with (*Describe the documents; as thus:* all the documents deposited by the defendant A. B., pursuant to the order dated the —— day of ——, 188—), at the Court of his lordship Mr. Justice ——, on ——day, the —— day of ——, 188—, at —— of the clock in the ——noon, on the trial of this action [*or*, on an examination of witnesses in this action].

Dated —— day of ——, 188—.

(*Name and address of solicitor or party bespeaking the attendance.*)

(*j*) See Dan. Pr. 1849.

(*k*) See R. S. C. Ord. LXIV. 7.

(*l*) On inspection a fee is payable of 2*s.* 6*d.* for each hour, or part of an hour, occupied, not exceeding on one day 10*s.*: by stamps impressed on the memorandum: Ord. as to S. C. Fees, 1884, Sched. No. 46; Ord. as to Fees, &c., July, 1884, p. 8.

(*m*) On bespeaking the attendance of the officer a fee is payable (in addition to the reasonable expenses of the officer) of, for each day or part of a day that he is necessarily absent from his office, 1*l.*; and the officer may require a deposit of stamps on account of any further fees, and a deposit of money on account of any further expenses, which may probably become payable, beyond the amount paid for fees and expenses on the application, and the officer or his clerk taking such deposit must make a note thereof on the application; the officer may also require an undertaking in writing to pay any further fees and expenses which may become payable beyond the amounts so paid and deposited: Ord. as to S. C. Fees, 1884, Sched. No. 25; the fee is payable by a stamp either impressed or adhesive to the memorandum: Ord. as to Fees, &c., July, 1884, p. 5.

1861.

Motion paper for production of documents deposited (*n*). [Dan. Pr. 1850.]

Formal parts : see Form 36.

To move on behalf of the plaintiff [*or as may be*], that the proper officer may be directed to attend (*State where, when, and on what proceeding ; as thus :* the assizes for the county of ——, to be holden at ——, in the said county ——), on the —— day of ——, 188—, at —— of the clock in the ——noon, and so on from day to day until the action, "Brown *v.* Jones," shall have been tried, and then and there to produce the following documents, that is to say : (*Describe the documents to be produced ; as thus :* two indentures dated respectively the —— day of ——, 188—, and the —— day of ——, 188—), deposited in Court by the defendant —— [*or as may be*], pursuant to an order dated the —— day of ——, 188—.

An affidavit in support accompanies.

1862.

Petition of course for the like (*n*). [Dan. Pr. 1850.]

Formal parts : see Form 39.

The humble petition of the plaintiff [*or as may be*].

Showeth as follows :

Show the necessity for the production of the original documents ; as thus :

1. An action, "Brown *v.* Jones," has been brought by your petitioner in the Chancery Division of this honourable Court against H. J. ; and such action has been ordered to be tried at the assizes for the county of ——, to be holden at ——, in the said county.

2. Your petitioner is advised that it is material and necessary for his case that he should produce to the Court and jury on the trial of the said action the several documents hereinafter mentioned ; and that certified or examined copies of the said documents will be insufficient for the purpose.

Your petitioner therefore humbly prays, that the proper officer may be directed to attend (*Continue as in* Form 1861, *to the end*).

1863.

Affidavit in support. [Dan. Pr. 1850.]

Formal parts : see Form 6.

1. *Show the necessity for the production of the original documents : see the statements in* Form 1862.

2. *Show means of knowledge.*

(*n*) For forms of order, see *The English Joint Stock Bank, Limited*, M. R. 2 July, 1870, Rolls Lib. ; *Wilkes* v. *Guardians of the Poor of Dudley Union*, M. R. 19 July, 1870, Rolls Lib. ; *Bell* v. *Smith*, M. R. 3 Dec. 1869, Rolls Lib.

1864.

Memorandum bespeaking attendance. [Dan. Pr. 1849.]

(*Short title and reference to the record.*)

For attendance with (*Describe the documents: see* Form 1861), at (*State where and when; as:* the assizes for the county of ——, to be holden at ——, in the said county), on the —— day of ——, 188—, at —— of the clock in the ——noon, on the trial of the action "Brown *v.* Jones."

Dated —— day of ——, 188—.

(*Name and address of solicitor or party bespeaking attendance.*)

1865.

Notice of motion or summons for the delivery out of documents deposited in Court, under an order (*o*). [Dan. Pr. 1850.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that (*Describe what; as thus:* all the documents

Or, the documents mentioned in the schedule hereto,

deposited by him with the Master of the Supreme Court [*or as may be*], pursuant to the order dated the —— day of ——, 188—, may be delivered out to the applicant.

1866.

Petition of course for the like: by consent. [Dan. Pr. 1850.]

Formal parts: see Form 39.

The humble petition of the plaintiff [*or as may be*].

Showeth as follows:

1. Pursuant to an order dated the —— day of ——, 188—, made in this action on the application of the defendant A. B. [*or as may be*], certain documents specified in the first schedule to an affidavit of your petitioner filed the —— day of ——, 188— [*or as may be*], were deposited by him with the Master of the Supreme Court [*or as may be*].

2. The purpose for which the said documents were so deposited being now satisfied, your petitioner is desirous to have the said documents delivered out to him.

Your petitioner therefore humbly prays that, by consent (*p*) of the defendant A. B. [*or as may be*], all the documents deposited by your petitioner as aforesaid may be delivered out to him.

1867.

Receipt, on delivery out of deposited documents. [Dan. Pr. 1850.]

Received the documents [*or as they may be described in the order*] mentioned or referred to in the above order.

Dated this —— day of ——, 188—.

(*Signature of the party to whom the documents are ordered to be delivered.*)

Witness to the signature of the said A. B.

C. D., of (*residence and addition*).

(*o*) For form of order, see 1 Seton, 168, No. 1.

(*p*) For form of consent, see Form 42.

1868.

Summons to dismiss action for non-compliance of plaintiff with order for discovery or inspection of documents (*q*). [Dan. Pr. 1851.]

Formal parts : see Form 43 *or* 1077.

on the part of the defendant A. B., that, the plaintiff having failed to comply with the order made in this action, dated the —— day of ——, 188—, whereby he was ordered to make and file a full and sufficient affidavit, stating whether he has or has had in his possession or power any, and (if any) what documents relating to the matters in question in this action [*or*, to produce documents for the inspection of the defendant, his solicitors and agents—*or as may be*], this action may be dismissed

If there are other defendants than the applicant, add : as against the said defendant,

for want of prosecution, with costs to be paid by the said plaintiff to the said defendant.

1869.

Summons to strike out defence for non-compliance of defendant with order for discovery or inspection of documents (*r*). [Dan. Pr. 1851.]

Formal parts : see Form 43 *or* 1077.

on the part of the plaintiff, that the defendant [*or*, the defendant ——] having failed to comply with the order made in this action, dated the —— day of ——, 188—, whereby he was ordered to make and file a full and sufficient affidavit, stating whether he has or has had in his possession or power any, and (if any) what documents relating to the matters in question in this action [*or*, to produce documents for the inspection of the plaintiff, his solicitors and agents—*or as may be*], the statement of defence delivered in this action by the said defendant on the —— day of ——, 188—, may be struck out, and that he may be placed in the same position as if he had not defended this action. And that the said defendant may be ordered to pay the costs of this application.

1870.

Proceedings to attach a party for non-compliance with order (*s*). [Dan. Pr. 1851.]

(*Same as* Forms 993 *to* 1001.)

(*q*) See R. S. C. Ord. XXXI. 21 ; and note (*a*), at p. 798. See also note (*t*) to Form 1834.

(*r*) See R. S. C. Ord. XXXI. 21 ; and note (*a*), at p. 798. For form of order, see 2 Seton, 1541, No. 2 ; see also note (*t*) to Form 1834.

(*s*) See R. S. C. Ord. XXXI. 21, 22, 23 ; and note (*a*), at p. 798.

CHAPTER XXXII.

ASCERTAINMENT OF FOREIGN LAW (*a*).

(*Dan. Pr.*, pp. 1883—1887.)

1871.

Notice of motion for case to be settled in chambers (*b*). [Dan. Pr. 1885.]

Formal parts : see Form 38.

on the part of the plaintiff [*or as may be*], that a case may be prepared setting forth the facts, and that such case, and the questions of Scotch law arising out of the same, may be settled by the Judge, for the purpose of ascertaining whether (*State the question*). And that such case and questions, when so approved and settled, may be remitted to the Court of Session in Scotland, and that the said Court may be desired to pronounce its opinion on such questions, upon the law administered by the said Court as applicable to the facts to be set forth in such case.

1872.

Summons to settle draft case (*c*). [Dan. Pr. 1885.]

Formal parts : see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], to settle the draft of the case directed by the order dated the —— day of ——, 188—.

1873.

Case for the opinion of a British Court abroad, under 22 & 23 Vict. c. 63 (*d*) [Dan. Pr. 1885.]

(*Title and reference to the record.*)

Case under the statute 22nd & 23rd Victoria, chapter 63, for the opinion of Her Majesty's High Court of Judicature at Fort William, in Bengal, in the East Indies (*dd*) [*or as may be*].

1.
2. } (*Set forth the facts, in numbered paragraphs.*)
3.

The opinion of Her Majesty's High Court of Judicature at Fort William, in Bengal [*or as may be*], is requested, with reference to the Hindoo Law [*or as may be*], as administered by that Court, and so far

(*a*) See 22 & 23 Vict. c. 63, as to British Courts ; and 24 & 25 Vict. c. 11, as to foreign Courts. For forms of order remitting a case to a British Court, see 1 Seton, 391.

(*b*) For form of order, see 1 Seton, 391, No. 1.

(*c*) See Form 1160.

(*d*) See *Login* v. *Princess of Coorg*, M. R. at Chambers, 15 Feb. 1862. Reg. Lib. B. 362 ; 30 Beav. 632. For form of order directing the case to be remitted, see 1 Seton, 391, No. 2.

(*dd*) Now styled Her Majesty's Supreme Court of Judicature in Bengal.

as the same is applicable to the facts set forth in the above case, in terms of the statute 22nd & 23rd Victoria, chapter 63, upon the following

Questions.

1. What, *&c.* } (*State the questions of law on which the opinion*
2. On whom, *&c.* } *of the Court is desired.*)

1874.

Memorandum identifying case (*e*). [Dan. Pr. 1885.]

(*Short title and reference to the record.*)

This case, and the questions of law arising out of the same, above stated, have been settled and approved by Mr. Justice ——, as the case and questions to be remitted for the opinion of the High Court of Judicature at Fort William, in Bengal [*or as may be*], pursuant to the order in this cause [*or*, matter], dated the —— day of ——, 188—.

Dated this —— day of ——, 188—.

R. M., Chief Clerk.

1875.

Formal parts of an opinion (*f*). [Dan. Pr. 1885.]

In the High Court of Judicature at Fort William, in Bengal.

(*Title of the cause, as in the case remitted.*)

This cause coming on this —— day of ——, 188—, for the opinion of the Court on the questions contained in the case stated pursuant to the order of Her Majesty's High Court of Justice in England, dated the —— day of ——, 188—, upon the Hindoo law administered in this Court, as applicable to the facts set forth in the said schedule: upon hearing counsel learned on both sides, the Court pronounced the opinion set forth in the schedule hereunto annexed, and marked with the letter A.

Dated, *&c.*

J. G., Registrar.

A. The schedule above referred to.

(*Title of cause.*)

The opinion of Her Majesty's High Court of Judicature at Fort William, in Bengal, with reference to the Hindoo law as administered by that Court, and so far as the same is applicable to the facts set forth in the above case, in terms of the statute 22nd & 23rd Victoria, chapter 63.

Answer to the 1st Question:

We are of opinion, *&c.*

Answer to the 2nd Question, *&c.*, *&c.*

(*Date, and signatures of the Judges.*)

(*e*) The memorandum should be written either at the foot of the case, or in the margin of the first page of it.

(*f*) See *Login* v. *Princess of Coorg*, Form 1873, note (*d*).

1876.

Notice of motion or summons to apply opinion (*g*). [Dan. Pr. 1885.]

Formal parts: see Form 38 *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the opinion of Her Majesty's Court of (*Describe it*), upon the case and questions remitted to that Court pursuant to the order in this cause [*or*, matter] dated the —— day of ——, 188—, and which opinion has been filed in the Central Office of the Supreme Court of Judicature, may be applied to the facts set forth in such case.

(*g*) See 22 & 23 Vict. c. 63, s. 3. For order on hearing on further consideration, applying opinion of Court abroad on the case submitted, see *Login* v. *Princess of Coorg*, M. R., 10 July, 1865, Reg. Lib. B. 2401. For form of order to remit the case, where it was suggested there was an accidental error in the opinion, see 1 Seton, 392, No. 4.

CHAPTER XXXIII.

CONSOLIDATED AND TEST ACTIONS.—TRANSFER AND REMOVAL OF ACTIONS AND PROCEEDINGS.

(*Dan. Pr.*, pp. 1888—1924, ccccxx., ccccxxi.)

SECTION I.—CONSOLIDATED AND TEST ACTIONS.

(*Dan. Pr.*, pp. 1888—1892.)

1877.

Notice of motion or summons to consolidate actions brought against same defendant, in respect of causes of action which might have been joined in the same action (*a*). [Dan. Pr. 1889.]

Formal parts: see Form 38 *or* 43 *or* 1077.

on the part of the defendant in each of the above-mentioned actions, that these actions may be consolidated and proceed as one action. And that the plaintiff may be ordered to pay to the defendant his costs of this application, to be taxed.

1878.

Notice of motion or summons to consolidate actions brought against different defendants on one contract (*b*). [Dan. Pr. 1889.]

Formal parts: see Form 38 *or* 43 *or* 1077.

on the part of the defendants in all the above-mentioned actions, that

(*a*) *Consolidation.*—Causes or matters pending in the same Division may be consolidated by order of the Court or a Judge, in the manner formerly in use in the superior Courts of common law: R. S. C. Ord. XLIX. 8. This order adopts the old practice at common law: *Amos* v. *Chadwick*, 4 Ch. D. 869. As to the old practice at law, see Chitty's Arch. 1085. The application may be made immediately after appearance, *Ibid.*, 1087. The application should be entitled in all the actions, *Ibid.*; Dan. Pr. 1890. Where the actions have been assigned to different Divisions of the Court, or to different Judges of the Chancery Division, there must, before the application to consolidate is made, be a transfer of all the actions to the same Division, or the same Judge of the Division; and the application to consolidate is then made to the Division to which, or to the Judge to whom, all the actions are attached, see Dan. Pr. 1889. For form of order, see 1 Seton, 324, No. 5. As to consolidation of actions, see 1 Seton, 322—326; Wilson, 424—26; Chitty's Arch. 1085—88; Chitty's Forms, 228—31; Ann. Pr. 465, 486. For form of order on motion, see 1 Seton, 324, No. 6. As to dealing with money paid into Court in two or more actions which are consolidated, where the plaintiff proceeds in one and fails, and as to the costs in all the actions, see R. S. C. Ord. XXII. 8.

(*b*) See note (*a*), *supra*. A plaintiff may, at his option, join as parties to the same action, all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes: R. S. C. Ord. XVI. 6.

these actions may be consolidated and proceed as one action. And that the plaintiff may be ordered to pay to the defendants their costs of this application: to be taxed (*c*).

1879.

Notice of motion or summons to consolidate several actions for administration, where no judgment has been given (*d*). [Dan. Pr. 1891.]

Formal parts: see Form 38 *or* 43 *or* 1077.

on the part of C. D., the defendant in each of the above-mentioned actions [*or*, of A. B., the plaintiff in the first [*or*, second] above-mentioned action], that the above-mentioned actions may be consolidated, and may henceforth be carried on as if they were one action; and that all necessary and proper directions may be given as to the persons who shall be plaintiffs, and as to the persons who shall be defendants, in such one action, and as to the conduct and carriage thereof; and that the costs of all parties of all the above-mentioned actions, including their costs of this application, may be costs in such one action.

1880.

Notice of motion or summons to stay proceedings in administration action, where judgment has been given in another action (*e*). [Dan. Pr. 1891.]

Formal parts: see Form 38 *or* 43 *or* 1077.

on the part of C. D., the defendant in each of the above-mentioned actions [*or*, of E. F., the plaintiff in the first above-mentioned action]:

1. That all proceedings in the second-mentioned action may be stayed.

2. That the costs of the plaintiff A. B., of the said second-mentioned action, up to the time when he had notice of the judgment in the first-mentioned action dated the —— day of ——, 188—, including his costs of this application, may be taxed.

3. *If assets admitted:* That such costs, when so taxed, may be paid to the said A. B. by the said defendant C. D. out of the assets of G. H., the testator in the pleadings in the first-mentioned action named; and that the said A. B. may be at liberty to go in under the said judgment and prove his claim against the assets of the said G. H., deceased.

Or, if assets denied: 3. That the said A. B. may be at liberty to add his costs to his claim against the assets of the said G. H., and to go in and prove the same, and the amount of his said costs when taxed, under the said judgment dated the —— day of ——.

4. That the costs of the defendant C. D., of the said second-mentioned

(*c*) As to costs of the application, see Dan. Pr. 1890.

(*d*) For form of order directing a consolidation and stay of proceedings, see 1 Seton, 323, No. 4. The application must be entitled in all the actions. As to consolidation and stay of concurrent actions for administration, see 1 Seton, 325, 326.

(*e*) As to staying proceedings in one administration action where a judgment has been given in another, see 1 Seton, 325, 226. For forms of order, *Ibid.*, 322, Nos. 1, 2, 3. The application must be entitled in all the actions. As to conduct of the proceedings, after an order to stay in one action, see 1 Seton, 326: *Re Swire, Mellor* v. *Swire*, 21 Ch. D. 647. *Cæteris paribus*, the plaintiff who was first in point of time will be preferred.

action and of this application, may be costs in the said first-mentioned action.

1881.

Another form, for like purpose (*f*). [Dan. Pr. 1891.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the defendant C. D., that all proceedings in this action may be stayed, and that the costs of the plaintiff of this action, up to and including this application, may be taxed, and when so taxed may be paid to the said plaintiff by the applicant out of the assets of G. H., deceased, in a due course of administration; and that the plaintiff may be at liberty to go in under the judgment dated the —— day of ——, 188—, in an action between E. F., on behalf of himself and all other the creditors of G. H., deceased, plaintiff, and the said C. D., defendant, 188—, F. No. ——, and prove his claim against the assets of the said G. H., deceased; and that the costs of the applicant may be costs in the said action.

1882.

Notice of motion or summons to stay proceedings, where several actions brought raising the same question (*g*). [Dan. Pr. 1891.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the defendants in all the above-mentioned actions, that all further proceedings in the above-mentioned actions of A. *v.* C., A. *v.* D., and A. *v.* E., may be stayed until after judgment has been entered in the first-mentioned action of A. *v.* B.: the defendants in the said actions of A. *v.* C., A. *v.* D., and A. *v.* E., submitting to be bound and concluded by the judgment in the said action of A. *v.* B.

1883.

Summons by plaintiffs in several actions raising the same question, that one may proceed as a test action, and to enlarge the time for pleading in the others (*h*). [Dan. Pr. 1891.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiffs in all the above-mentioned actions respectively, that the plaintiffs in all the above-mentioned actions respectively, other than the action of A. *v.* B., undertaking that the said action of A. *v.* B. shall be treated as a test action, and shall decide their rights in all the said other actions respectively as against themselves; and the plaintiff in the said action of A. *v.* B. undertaking that the said action shall be prosecuted with due diligence: the time for the delivery of the statement of claim in all the above-mentioned actions respectively, other than the said test action of A. *v.* B., may be enlarged until fourteen days next after judgment shall have been given in the said action of A. *v.* B. on the trial thereof, or until further order.

(*f*) See notes (*d*) and (*e*), *supra*. For form of order, see 1 Seton, 322, No. 2.

(*g*) See *Amos* v. *Chadwick*, 4 Ch. D. 869; and Chitty's Arch. 1085 *et seq.* The application can only be made by defendants, and not by plaintiffs: *Amos* v. *Chadwick*, 4 Ch. D. 869. The application may be made immediately after appearance, and should be entitled in all the actions: Chitty's Arch. 1087. As to the effect of the order, see *Ibid.* Where the actions are pending before different Judges, there must first be a transfer to the same Judge: see note (*a*), *supra*.

(*h*) For form of order where both parties agree to the action being treated as a test action, see 1 Seton, 347, No. 8.

1884.
Summons for judgment to be entered after trial of test action (*i*). [Dan. Pr. 1892.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that judgment may be entered for the applicant in each of the above-mentioned actions, in accordance with the judgment dated the —— day of ——, 188—, in the action of A. *v.* B., which by order dated the —— day of ——, 188—,was directed to be treated as a test action; and that the costs of the applicant of each of the above-mentioned actions, including the costs of this application, may be taxed and paid by the respective defendants.

SECTION II.—TRANSFER FROM ONE DIVISION OF THE HIGH COURT TO ANOTHER DIVISION; OR FROM ONE JUDGE OF THE CHANCERY DIVISION TO ANOTHER JUDGE OF THAT DIVISION (*j*).

(*Dan. Pr.*, pp. 1892—1898, ccccxx.)

(*j*) *Transfer.—Summary of Material Provisions of R. S. C.* 1883.

	ORDER.
Transfer by Lord Chancellor.—Causes or matters may be transferred from one Division to another, or from one Judge of the Chancery Division to another, by order of the Lord Chancellor, but no transfer can be made from or to any Division without the consent of the President of the Division . .	XLIX. 1.
Transfer in Chancery Division for trial only.—A cause or matter in the Chancery Division may be transferred for the purpose of trial only: in such case the original and any further hearing will take place before the Judge to whom it is transferred, but all other proceedings, whether before or after trial, must be taken in the same manner as if the cause or matter had not been transferred, unless the Judge to whom it is transferred shall direct any proceedings before or after the hearing to be taken before himself or a referee	,, 2.
Transfer from one Division to another by order of Court or Judge.—Any cause or matter may, at any stage, be transferred from one Division to another by order of the Court or of any Judge of the Division to which it is assigned: with the consent of the President of the Division to which it is proposed to transfer	,, 3.
Hearing of particular applications by any Judge.—The Lord Chancellor may direct a particular application in any cause or matter to be disposed of by any Judge of the High Court who shall consent so to do, to whatever Division or Judge it may have been assigned	,, 4.
Transfer of action after order for administration, &c.—After an order by any Judge of the Chancery Division for winding up of a company or administration of an estate, the Judge in whose Court such winding-up or administration is pending may, without any further consent, order the transfer to himself of any cause or matter pending in any other Court or Division, brought or continued by or against the company, or by or against the executors or administrators of the testator or intestate	,, 5.
Transfer of originating summons.—An originating summons not assigned to the proper Judge (see R. S. C. Ord. LV. 3, 4,	

(*i*) See Chitty's Arch. 1087, 1088. For form of judgment, see Chitty's Forms, 230. The summons should be entitled in all the actions.

	ORDER.
11), must be transferred to him by the Judge to whom it is assigned	XLIX. 6.
Assignment of action transferred to Chancery Division.—Any cause or matter transferred from any other Division to the Chancery Division must, by the order of transfer, be assigned to one of the Judges of that Division to be named in the order .	,, 7.

1885.

Notice of motion or summons for transfer of cause or matter commenced in wrong Division (*k*). [Dan. Pr. 1894.]

Formal parts: see Form 38 *or* 43 *or* 1077.

on the part of the defendant C. D. [*or as may be*], that this action [*or*, matter] may be transferred to the —— Division of this honourable Court.

If the application is for a transfer to the Chancery Division (*l*), *add:* and may be assigned to Mr. Justice ——.

And that the plaintiff may be ordered to pay to the applicant his costs of and occasioned by this application.

1886.

Petition for transfer from one division to another (*m*). [Dan. Pr. 1893.]

Formal parts: see Form 40.

To the Right Honourable the Lord High Chancellor of Great Britain.

The humble petition of the plaintiff [*or as may be*].

Showeth as follows:

1. *State the institution of the action or other proceeding; as thus:* On the —— day of ——, 188—, your petitioner [*or*, the plaintiff] commenced this action in the —— Division of this honourable Court.

If the proceeding was commenced in the Chancery Division, add: and the same was assigned to Mr. Justice ——.

(*k*) As to the assignment of causes and matters commenced in the High Court of Justice to one of the Divisions thereof, see Sup. Cot. Jud. Act, 1875 (38 & 39 Vict. c. 77), s. 11; R. S. C. Ord. V. 5. As to the assignment of causes and matters commenced in the Chancery Division of the High Court, to one of the Judges thereof, see Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), ss. 33, 42; R. S. C. Ord. V. 9. As to the assignment of particular causes and matters to particular Divisions of the High Court, see Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 34. As to transfer from one Division to another, see *Ibid.*, s. 36; Sup. Cot. Jud. Act, 1875 (38 & 39 Vict. c. 77), s. 11, sub-s. 2. The consent of the President of the Division from or to which the cause or matter is transferred is required: see R. S. C. Ord. XLIX. 3; and note (*j*), *supra*. The application should be supported by an affidavit stating the cause of action. As to transfer generally, see 1 Seton, 319, 320. For forms of order for transfer from one Division to another, *Ibid.*, 318, 319, Nos. 3, 4.

(*l*) See R. S. C. Ord. XLIX. 7; and note (*j*), *supra*.

(*m*) See R. S. C. Ord. XLIX. 1; and note (*j*), *supra*. Where all parties consent, the Lord Chancellor will direct the transfer on a written application, accompanied by the written consent of all parties: *Mem.*, 1 Ch. D. 41; if all the parties do not consent, an application upon notice given must be made to the Lord Chancellor in Court. An order for transfer from one Division to another is not effectual, until the necessary consents of the Presidents of Divisions have been obtained thereto: *Humphreys* v. *Edwards*, 45 L. J. Ch. 112.

2. Your petitioner is desirous that this action should be transferred to the —— Division of this honourable Court,

If the action is to be transferred to the Chancery Division (*n*), *add:* and be assigned to Mr. Justice ——,

for the purpose of being consolidated with the action of F. *v.* G., now pending in the said Division [*or*, before the said Judge—*or as may be*].

Your petitioner therefore humbly prays, that this action may be transferred to the —— Division of this honourable Court,

If the action is to be transferred to the Chancery Division (*n*), *add:* and may be assigned to Mr. Justice ——,

if the president of the said —— Division shall consent thereto.

And your petitioner will ever pray, *&c.*

1887.

Petition for transfer from one judge to another of the Chancery Division (*o*). [Dan. Pr. 1893.]

Formal parts: see Form 40.

To the Right Honourable the Lord High Chancellor of Great Britain.

The humble petition of the plaintiff [*or as may be*].

Showeth as follows:

1. *State the institution in the Chancery Division of the action or other proceeding, as in paragraph* 1 *of* Form 1886.

2. Your petitioner is desirous that this action should be transferred to Mr. Justice ——, for the purpose of being consolidated with the action of F. *v.* G., now pending before the said Mr. Justice ——.

Your petitioner therefore humbly prays, that this action may be transferred to Mr. Justice ——, and when so transferred may be considered as an action originally assigned to him.

And your petitioner will ever pray, *&c.*

1888.

Consent to petition. [Dan. Pr. 1894.]

(*Same as* Form 42.)

1889.

Notice of motion for transfer from one division or judge to another (*p*). [Dan. Pr. 1894.]

(*Title and reference to the record.*)

Take notice that the Lord High Chancellor of Great Britain will be moved on —— day, the —— day of ——, 188—, or so soon thereafter as counsel can be heard, by Mr. A., of counsel on behalf of the above-

(*n*) See R. S. C. Ord. XLIX. 7; and note (*j*), *supra.*

(*o*) See R. S. C. Ord. XLIX. 1; and note (*j*), *supra*; *Mem.*, 1 Ch. D. 41; and note (*m*), *supra.* For form of order, see 1 Seton, 318, No. 1.

(*p*) See R. S. C. Ord. XLIX. 1; and note (*j*), *supra*; *Mem.*, 1 Ch. D. 41; and note (*m*), *supra.*

named plaintiff [*or as may be*], that this action (*Continue as in prayer of* Form 1886 *or* 1887).

1890.

Notice of motion or summons for the transfer of an action (*q*).
[Dan. Pr. 1894.]

Formal parts : see Form 38 *or* 43 *or* 1077.

on the part of the plaintiff, that this action may be transferred to the —— Division of this honourable Court,

If the action is to be transferred to the Chancery Division (*r*), *add :*

and may be assigned to Mr. Justice —— [*or as may be*],

if the President of the said Division shall consent thereto.

1891.

Consent of President of Chancery Division to transfer to that division (*s*).
[Dan. Pr. 1894.]

The Lord Chancellor, as President of the Chancery Division of the High Court of Justice, consents to the transfer to that Division of this action.

(*Signature of Principal Secretary.*)

1892.

Motion paper for transfer, where an order for a winding-up or administration has been made (*t*).
[Dan. Pr. 1898.]

Formal parts : see Form 36.

To move on behalf of the plaintiff [*or as may be*], that the action of F. *v.* D., 188—, F. No. ——, now pending in the (Queen's Bench) Division of this honourable Court against C. D., the executor of the will of the above-named X. Y., deceased, may be transferred to the Chancery Division of this honourable Court, and assigned to Mr. Justice —— (*u*).

(*q*) See R. S. C. Ord. XLIX. 3 ; and note (*j*), *supra*. This rule has reference only to a transfer from one Division to another, and not to a transfer from one Judge to another of the same Division : *Chapman* v. *Real Property Trust, Limited*, 7 Ch. D. 732. The application must be on notice : *Humphreys* v. *Edwards*, 45 L. J. Ch. 112 ; and may be either to the Court or in Chambers : *Hillman* v. *Mayhew*, 1 Ex. D. 132. The order to transfer is not effectual until the consent is obtained of the President of the Division to which the action is to be transferred : *Humphreys* v. *Edwards*, *ubi supra*. For cases under this rule, see Dan. Pr. 1896, 1897, and notes thereto ; *Ladd* v. *Pulcston*, W. N. (1883), 72 : 31 W. R. 539, 802 ; *London Land Co.* v. *Harris*, 13 Q. B. D. 540 : 33 W. R. 14. As to obtaining the consent of the Lord Chancellor, as President of the Chancery Division, to a transfer to that Division, see Form 1891 ; and note (*s*) thereto.

(*r*) See R. S. C. Ord. XLIX. 7 ; and note (*j*), *supra*.

(*s*) The consent of the Lord Chancellor to the transfer will be indorsed on the order to transfer by his secretary, and stamped with his official stamp : 1 Seton, 319, 320.

(*t*) See R. S. C. Ord. XLIX. 5 ; and note (*j*), *supra ; In re Sharpe, Scott* v. *Sharpe*, W. N. (1884), 28 ; *In re Ebersley's Hotel Co.*, W. N. (1884), 252 (where actions proceeding in a District Registry were, after transfer to the Chancery Division, removed to London, under R. S. C. Ord. XXXV. 16). The form of the present rule appears to render obsolete the decision in *Re Madras Irrigation and Canal Co.*, 16 Ch. D. 702, cited Dan. Pr. 1898, note (*x*). An application for a transfer under this rule should be made *ex parte : Field* v. *Field*, W. N. (1877), 98 ; *Whitaker* v. *Robinson*, W. N. (1877), 201.

(*u*) See R. S. C. Ord. XLIX. 7 ; and note (*j*), *supra*.

1893. Summons for the like.

Formal parts: see Form 43 *or* 1077.
on the part of the plaintiff [*or as may be*], that (*Continue as in* Form 1892 *to the end*).

SECTION III.—REMOVAL FROM OR TO A DISTRICT REGISTRY (*v*).

1894. Notice by defendant to remove an action proceeding in a District Registry to London (*w*). [Dan. Pr. 1900.]

(*Same as* Form 454.)

1895. Certificate of non-delivery of defence (*x*).

(*Same as* Form 455.)

1896. Notice of motion or summons that action may proceed in District Registry, notwithstanding notice or appearance in London (*y*). [Dan. Pr. 1900.]

(*Same as* Form 438.)

1897. Notice of motion or summons to remove an action proceeding in a District Registry to London (*z*). [Dan. Pr. 1900.]

Formal parts: see Form 38, *or* 43 *or* 1077.
on the part of the plaintiff [*or as may be*], that this action may be removed from the District registry at —— to London, and may proceed in London accordingly.

(*v*) As to the transfer of an action proceeding in a District Registry to London, or of an action proceeding in London to a District Registry, see Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 65; R. S. C. Ord. XII. 7; R. S. C. Ord. XXXV. 13—18; and note (*f*), at p. 187; 1 Seton, 320, 321.

(*w*) See R. S. C. Ord. XXXV. 14.

(*x*) *Ibid.*, 15.

(*y*) *Ibid.*, 14.

(*z*) See Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 65: R. S. C. Ord. XXXV. 16. For form of order, see 1 Seton, 319, No. 5. As to transmission by District Registrar of documents to the Central Office, after removal of an action, see R. S. C. Ord. XXXV. 20.

1898.

Notice of motion or summons to remove an action proceeding in London to a District Registry (*a*). [Dan. Pr. 1901.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that this action may be removed from London to the District Registry at ——, and may proceed in the District Registry at —— accordingly.

Section IV.—Removal of Actions and Proceedings from the High Court to a County Court.

(*Dan. Pr.*, pp. 1901—1909.)

1899.

Summons to try action of contract in the County Court, where claim indorsed on writ does not exceed £50 (*b*). [Dan. Pr. 1902.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant A. B., that this action may be tried in the County Court of ——, holden at —— (*c*).

1900.

Affidavit in support. [Dan. Pr. 1902.]

Formal parts: see Form 6.

1. The writ of summons in this action was served upon me on the —— day of ——, 188—. The paper writing now produced and shown to me, and marked A. (*d*), is the copy served upon me of the said writ of summons.

2. The whole [*or*, A part] of the demand of the plaintiff in this action is *bonâ fide* contested by me.

(*a*) See R. S. C. Ord. XXXV. 17.

(*b*) See the Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 67; the County Courts Act, 1867 (30 & 31 Vict. c. 142), s. 7; 1 Seton, 331, 332; Chitty's Forms, 787—790; Chitty's Arch. 1450; Pitt Lewis, 764—766. The application must be made within *eight days* from service of the writ of summons: 30 & 31 Vict. c. 142, s. 7. This section does not apply where the payment, whereby the amount in dispute is reduced to a sum not exceeding 50*l.*, is made after action brought: *Osborne* v. *Homburg*, 1 Exch. D. 48; *Foster* v. *Usherwood*, 3 Exch. D. 1. The action is not actually transferred to the County Court until the writ of summons and order are lodged with the Registrar of the County Court: *Welply* v. *Buhl*, 3 Q. B. D. 80; affirmed on appeal, 3 Q. B. D. 253; but when the writ and order are lodged with the Registrar of the County Court, the effect is that the action and all proceedings therein are to be heard and taken in the County Court named in the order, as if the action had been originally commenced in that County Court. As to the proceedings in the County Court after the order is made, see the County Courts Act, 1867, s. 7; the County Courts Rules, 1875, Ord. XX. rr. 1—3; Pitt Lewis, 772 *et seq.*

(*c*) This must be the County Court, or one of the County Courts, in which the action might have been commenced: 30 & 31 Vict. c. 142, s. 7. As to the County Court in which a plaintiff may commence his action, see 30 & 31 Vict. c. 142, s. 1; Pitt Lewis, 288—303.

(*d*) For form of memorandum of exhibit, see Form 28.

1901.

Summons to remit action of tort for trial before a County Court (*e*). [Dan. Pr. 1904.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant A. B. that, unless the plaintiff shall, within —— days, give security in the sum of £—— for the applicant's costs of this action, all proceedings may be stayed, or that it may be remitted for trial before the County Court of ——, holden at ——.

1902.

Affidavit in support. [Dan. Pr. 1904.]

Formal parts: see Form 6.

1. The plaintiff has no visible means of paying my costs [*or*, the costs of the defendant], should judgment not be given for the said plaintiff.

2. (*Show means of knowledge.*)

1903.

Summons to transfer an action or matter to a County Court (*f*). [Dan. Pr. 1908.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant, that this action [*or*, matter] may be transferred to the County Court of ——, holden at —— (*g*).

1904.

Affidavit in support. [Dan. Pr. 1908.]

Formal parts: see Form 6.

1. The plaintiff's claim in this action is for (*Here state the plaintiff's claim as indorsed on the writ, and show that the action is one which might have been commenced in a County Court*).

2. (*State the special reasons for having the action transferred* (*h*).)

3. (*Show means of knowledge.*)

(*e*) See the Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 67 ; the County Courts Act, 1867 (30 & 31 Vict. c. 142), s. 10 ; 1 Seton, 331, 332 ; Chitty's Forms, 792—797 ; Chitty's Arch. 1451, 1452 ; Pitt Lewis, 766—769. When an order is made under this section, the action is not actually transferred to the County Court until the writ of summons and the order are lodged with the Registrar of the County Court : *Welply* v. *Buhl*, 3 Q. B. D. 80 ; affirmed on appeal, 3 Q. B. D. 253 ; but when the writ and order are lodged with the Registrar, the effect is to transfer the action to the County Court altogether ; and the County Court named in the order has all the same powers and jurisdiction with respect to the action, as if both parties had agreed, by a memorandum signed by them, that such County Court should have power to try the action, and the same had been commenced by plaint in such County Court : 30 & 31 Vict. c. 142, s. 10. The Supreme Court retains jurisdiction until the transfer has been completed by all necessary steps being taken : *David* v. *Howe*, 27 Ch. D. 533. As to the proceedings in the County Court after the order is made, see 30 & 31 Vict. c. 142, s. 10 ; the County Courts Rules, 1875, Ord. XX. rr. 1—4 ; Pitt Lewis, 772—776.

(*f*) See the Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 67 ; the County Courts Act, 1867 (30 & 31 Vict. c. 142), s. 8 ; 1 Seton, 331, 332 ; Pitt Lewis, 769—771. As to the jurisdiction in equity of the County Courts, see the County Courts Act, 1865 (28 & 29 Vict. c. 99), s. 1 ; the County Courts Act, 1867 (30 & 31 Vict. c. 142), ss. 9, 24, 25 ; the Partition Act, 1868 (31 & 32 Vict. c. 40), s. 12 ; and Dan. Pr. 1905 *et seq.* For form of order, see 1 Seton, 328, No. 3*b*. As to the proceedings in the County Court after the order is made, see the County Courts Rules, 1875, Ord. XX. rr. 1—3 ; Pitt Lewis, 772—776.

(*g*) See note (*c*), *supra*.

(*h*) See *Picard* v. *Hine*, 18 L. T. N. S. 705.

1905.

Summons for the re-transfer of an action or matter to the County Court (*i*). [Dan. Pr. 1909.]

Formal parts: see Form 1078.

on the part of the plaintiff [*or as may be*], that this action [*or*, matter], which was instituted in the County Court of ——, holden at ——, and which was transferred to this Court by order dated the —— day of ——, 188—, may be re-transferred to the said County Court of ——, holden at ——, and be carried on and prosecuted in the said County Court.

If so, add: notwithstanding the subject-matter thereof exceeds the limit, in point of amount, to which the jurisdiction of the County Courts is limited by the 28 & 29 Vict. c. 99 (*j*).

Section V.—Removal from an Inferior Court to the High Court of Justice.

(*Dan. Pr.*, pp. 1909—1924, ccccxx., ccccxxi.)

(1.) *From a County Court* (*k*).

1906.

Notice of motion or summons to transfer cause or matter from a County Court (*l*). [Dan. Pr. 1915.]

In the High Court of Justice, 188—. B. No. ——.
Chancery Division.
(*Name of Judge* (*ll*).)

In the matter of the Act 28 & 29 Vict. c. 99 [*or*, In the matter of the Supreme Court of Judicature Acts, 1873 to 1884].

And in the matter of (*State the proceeding in the County Court, as thus:* a plaint in the County Court of ——, holden at ——, between A. B., plaintiff, and C. D., defendant).

(*i*) See the County Courts Act, 1867 (30 & 31 Vict. c. 142), s. 8. For form of order, see 1 Seton, 328, No. 4.

(*j*) See 28 & 29 Vict. c. 99, s. 9. For form of order for cause to proceed in County Court, notwithstanding the subject-matter exceeds the limit, see 1 Seton, 329, No. 5.

(*k*) A cause or matter pending in a County Court may be removed to the High Court of Justice, either by an order of the Court, see 28 & 29 Vict. c. 99, s. 3; 36 & 37 Vict. c. 66, s. 90; or by writ of *certiorari*, which can only issue by leave of the Court, see 9 & 10 Vict. c. 95, s. 90; 13 & 14 Vict. c. 61, s. 16; 19 & 20 Vict. c. 108, s. 38. As to removal from a County Court, see 1 Seton, 331, 332; Chitty's Forms, 798—802; Chitty's Arch. 1411—1415; Pitt Lewis, 179—189.

(*l*) See 28 & 29 Vict. c. 99, s. 3; 36 & 37 Vict. c. 66, s. 90. An application under 28 & 29 Vict. c. 99, s. 3, must be by summons; an application under 36 & 37 Vict. c. 66, s. 90, may be either by motion or summons. If the application is made by summons, it must be by originating summons. In either case, it seems that it should, at least in the first instance, be *ex parte*. An application under the 28 & 29 Vict. c. 99, s. 3, should be supported by an affidavit showing circumstances rendering the transfer necessary or desirable; an application under the 36 & 37 Vict. c. 66, s. 90, should be supported by an affidavit stating the counterclaim, and showing that it involves matter beyond the jurisdiction of the Court. As to the mode in which the record of the proceedings in the County Court is transmitted to the High Court, see County Courts Rules, 1875, Ord. XX. 7.

(*ll*) See R. S. C. Ord. V. 9 (*e*). It would seem that proceedings cannot be originated by *ex parte* motion, such mode of application not being contemplated by the rule. The notice of motion need not be addressed to, or served upon, any one.

If the application is made by motion, say: Take notice (*&c.: proceed as in* Form 38 *to* on the part of).

If the application is made by summons, say: Let, (*&c.: proceed as in* Form 1078 *to* noon), on the hearing of an application on the part of

In either case, proceed thus: the above-named A. B. [*or*, C. D.], of (*residence and addition*), that the plaint now pending in the County Court of ——, holden at ——, against the above-named C. D., at the suit of the above-named A. B., may be transferred to the Chancery Division of this Court, and be assigned to Mr. Justice ——.

1907.

Notice of motion or summons for writ of *certiorari* to remove action from County Court (*m*). [Dan. Pr. 1913.]

In the High Court of Justice, Chancery Division. 188—. B. No. ——.

(*Name of Judge* (*mm*).)

In the matter of a plaint in the County Court of ——, holden at —— (*n*).

If the application is made by motion, say: To move on behalf of

If the application is made by summons, say: Let (*&c.: proceed as in* Form 1078, *to* noon), on the hearing of an application on the part of

In either case, proceed thus: the above-named A. B. [*or*, C. D.], of (*residence and addition*), that a writ of *certiorari* may be ordered to issue, directed to the Judge of the County Court of ——, holden at ——, to certify and remove a plaint between A. B. and C. D., with all things touching the same, from the said County Court into the Chancery Division of this Honourable Court. And that the proper officer may be ordered to receive and file the same. And that the said action, when removed, may be assigned to Mr. Justice ——, and may be continued and prosecuted in this Court in the same manner as if it had been originally commenced therein and assigned to the said Judge.

1908.

Affidavit in support. [Dan. Pr. 1913.

Title: see Form 1907; *other formal parts: see* Form 6.

1. (*State the proceedings which have been had in the County Court.*)

2. The plaintiff's claim in the said action is for (*Here state the nature and particulars of the plaintiff's claim*).

3. (*State facts showing that it is desirable that the action should be tried in a superior Court; as thus:* I am advised and verily believe that upon the trial of the said action several difficult questions of law are likely to

(*m*) See 9 & 10 Vict. c. 95, s. 90; 19 & 20 Vict. c. 108, s. 38. The application for a *certiorari* may be made *ex parte*; and may be made either to the Court or at Chambers. When made at Chambers, it must be by originating summons. Where, on the hearing of an *ex parte* application, the Court or Judge directs an order or summons to show cause to be served, he may stay the proceedings in the County Court in the meantime: 19 & 20 Vict. c. 108, s. 40; as to the service of such order or summons, see *Ibid.* As to *certiorari* to remove proceedings from the County Court, see 1 Seton, 329, 330; Chitty's Forms, 799 *et seq.*; Chitty's Arch. 1404 *et seq.*; Pitt Lewis, 179—186.

(*mm*) See note (*ll*), *supra*.

(*n*) In the Chancery Division it is usual to entitle the application in the matter of the proceeding in the inferior Court, see 1 Seton, 335.

arise, and, amongst others, the following: (*Here state the questions which are likely to arise, and verify the facts raising such questions*)).

If the application is made by a defendant, add the following paragraph:

4. I have a good defence to the said action upon the merits; and this application is not made for the purpose of embarrassing or delaying the plaintiff, but *bonâ fide*, and for the purpose of obtaining a proper trial of the said action.

1909.

Præcipe for writ of *certiorari* (*o*). [Dan. Pr. 1910, 1914.]

Title as in Form 1907.

Seal, in pursuance of order dated the —— day of ——, 188—, a writ of *certiorari*, directed to the Judge of the County Court of ——, holden at ——.

Dated the —— day of ——, 188—.

(*Name and address of solicitor or party issuing writ.*)

1910.

Writ of *certiorari* (*p*). [Dan. Pr. 1910, 1914.]

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To the Judge of the County Court of ——, holden at ——, greeting.

We, willing for certain causes to be certified of a plaint levied in our Court before you against C. D. at the suit of A. B., command you that you send to us forthwith in the Chancery Division of our High Court of Justice, the said plaint, with all things touching the same, as fully and entirely as the same remain in our said Court before you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon what of right we shall see fit to be done.

Witness (*&c.: conclude as in* Form 935).

1911.

Indorsement on writ.

(*Same as* Form 3 *or* 4.)

1912.

Notice of having issued writ of *certiorari* (*q*). [Dan. Pr. 1914.]

Title of the proceeding in the County Court; other formal parts: see Form 37.

Take notice that, by virtue of an order dated the —— day of ——, 188—, a writ of *certiorari* was, on the —— day of ——, 188—, issued

(*o*) See R. S. C. App. G., No. 13. The *præcipe* must bear a stamp of 5*s.* impressed upon it: Ord. as to S. C. Fees, 1884, Sched. No. 6; Ord. as to Fees, &c., July, 1884, p. 4.

(*p*) For form of writ, see R. S. C. App. J., No. 9. On sealing the writ the order giving leave to issue it must be produced. The writ should be served on the Judge of the County Court, or on the Registrar thereof, or upon a person acting as clerk at the office of the Registrar; Chitty's Arch. 1415. As to the time for service, see 19 & 20 Vict. c. 108, s. 41; Dan. Pr. 1914. As to giving notice to the opposite party, see *Ibid.*

(*q*) See 19 & 20 Vict. c. 108, s. 41.

out of the High Court of Justice, directed to the Judge of the County Court of ——, holden at ——, commanding him to return into the Chancery Division of the said High Court of Justice the plaint levied in this action, together with all things touching the same.

1913.

Return to the writ (*r*). [Dan. Pr. 1914.]

(1.) (*To be indorsed on writ.*)

The execution of this writ appears in the schedule hereunto annexed.

The answer of X. Y., esquire, Judge of the County Court of ——, holden at ——.

(2.) (*Schedule to be annexed to writ.*)

I, X. Y., esquire, the Judge of the County Court of ——, holden at ——, in the said county, to our Sovereign Lady the Queen do most humbly certify, that before the coming of this writ to me directed, and to this schedule annexed (to wit), on the —— day of ——, 188—, A. B. in the said writ named entered in the office of the Registrar of the said County Court at —— aforesaid, a plaint in writing against C. D. in the said writ also named for (*Here state the cause of action. The further proceedings in the action down to the issue of the writ should be stated*).

And this is the tenor of the record and process of the said plaint, with all things touching the same, as it remains before me.

1914.

Summons that a suit or matter may be continued in the County Court (*s*). [Dan. Pr. 1916.]

Proceed as in Form 1906, *down to* may be ; *and conclude thus :* carried on and prosecuted in the said County Court, notwithstanding the subject-matter thereof exceeds the limit, in point of amount, to which the jurisdiction of the County Courts is limited by the stat. 28 & 29 Vict. c. 99.

1915.

Notice of motion or summons for *certiorari* to remove judgment of County Court for the purpose of issuing execution thereon (*t*). [Dan. Pr. 1918.]

In the High Court of Justice, 188—. B. No. ——.
Chancery Division.
(*Name of Judge* (*tt*).)

In the matter of the County Courts Act, 1856.
And in the matter of a judgment recovered in the County Court of ——, holden at ——, in a plaint between A. B. plaintiff, and C. D. defendant (*u*).

(*Proceed as in* Form 1907, *to* may be ordered to issue), to remove a

(*r*) See Chitty's Arch. 1408 ; Chitty's Forms, 802. If the Judge does not return the writ, notice should be given under R. S. C. Ord. LII. 11 ; see Chitty's Forms, 802.

(*s*) See 28 & 29 Vict. c. 99, s. 9. The application is by originating summons. For form of order, see 1 Seton, 329, No. 5.

(*t*) See 19 & 20 Vict. c. 108, s. 49. When the application is made at Chambers, it will be by originating summons.

(*tt*) See note (*ll*), *supra*.

(*u*) See 1 Seton, 335.

plaint between A. B. and C. D. from the County Court of ——, holden at ——, together with the record of the judgment thereon obtained in the said Court, into this Court. And that the proper officer may be ordered to receive and file the same.

1916.

Affidavit in support. [Dan. Pr. 1918.]

Title as in Form 1915 ; *other formal parts : as in* Form 6.

1. On the —— day of ——, 188—, I [*or*, the above-named ——], by a judgment of the County Court of ——, holden at ——, recovered against the above-named C. D. the sum of £——, for debt [*or*, damages], and £—— for costs.

2. The said judgment still remains in force and unsatisfied.

3. The said C. D. has no goods or chattels which can be taken to satisfy the said judgment.

4. (*Show means of knowledge.*)

1917.

Præcipe for writ of *certiorari*. [Dan. Pr. 1918.]

(*Same as* Form 1909.)

1918.

Writ of *certiorari*. [Dan. Pr. 1918.]

(*Same as* Form 1910, *adding after the words*, "said plaint," *the following :* together with the record of the judgment thereon obtained in our said Court before you.)

1919.

Indorsement on writ. [Dan. Pr. 1918.]

(*Same as* Form 3 *or* 4.)

1920.

Return to writ (*v*). [Dan. Pr. 1914.]

Proceed as in Form 1913, *down to* named, *and continue as follows :* And that afterwards (to wit), on the —— day of ——, 188—, a summons on the said plaint was issued under the seal of the said Court according to the form of the statutes in that behalf, whereby the said C. D. was summoned to appear at the said Court, to be holden at ——, in the county of —— aforesaid, on the —— day of ——, 188—, to answer the said A. B. to a claim, the particulars of which were thereunto annexed, and are as follows (*Copy the particulars*). And that afterwards (to wit), on the —— day of ——, 188—, at the said Court, holden on that day, it was adjudged that the said A. B. should recover against the said C. D. the sum of £—— for debt [*or*, damages], and £—— for costs, amounting together to £—— (*Where the judgment has been drawn up and filed of record, add :* and which said judgment is here-

(*v*) If the Judge does not return the writ notice should be given under R. S. C. Ord. LII. 11.

unto annexed). And this is the tenor of the record and process of the said plaint and judgment, with all things touching the same as it remains before me.

(2.) *Removal from the Mayor's Court of the City of London.*

(*Dan. Pr.*, pp. 1919—1921.)

1921.

Notice of motion, or summons to remove action or suit in Mayor's Court (*w*). [Dan. Pr. 1919, 1920.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*ww*).)

In the matter of a certain action [*or*, suit] now depending on the common law [*or*, equity] side of the Mayor's Court, London, wherein A. B. is plaintiff, and C. D. is defendant (*x*).

If the application is made by motion, say: Take notice (*&c.: proceed as in* Form 38, *to* counsel) on the part of

If it is made by summons, say: Let all parties (*&c.: proceed as in* Form 1078, *to* noon), on the hearing of an application on the part of

In any case, proceed thus: the above-named C. D. [*or as may be*], of (*residence and addition*), that the above-mentioned action [*or*, suit] of B. *v.* D. now depending on the common law [*or*, equity] side of the Mayor's Court, London, and all proceedings had therein, may, pursuant to the provisions in that behalf of the Mayor's Court of London Procedure Act, 1857, be removed from out of the common law [*or*, equity] side of the said Mayor's Court, into the Chancery Division of this Court, and be assigned to Mr. Justice ——. And that the original proceedings filed in the said Mayor's Court, London, or office copies thereof, may be brought into and placed on record in this Court, and that the same may be filed in the Central Office of the Supreme Court of Judicature. And that the said action [*or*, suit], when removed, may be continued and prosecuted in this Court, in the same manner as if it had been originally commenced therein, and assigned to the said Judge.

(*w*) *Removal from Mayor's Court.*—See 20 & 21 Vict. c. clvii., ss. 16, 20, 52; and 36 & 37 Vict. c. 66, s. 90; 1 Seton, 330; Chitty's Arch. 1405; Brandon's Mayor's Court Practice, 57—60; Candy's Mayor's Court Practice, 104—108. If the application is made at Chambers, it must, unless made in a proceeding already pending in the superior Court, be made by an originating summons. For form of order, see 1 Seton, 327, No. 1; *Nothard* v. *Proctor* and *Blewitt* v. *Proctor*, V.-C. B., 16 Nov. 1875, Reg. Lib. B. 2872. When an order for removal is made it would seem that an appearance should be entered in the Superior Court by the defendant. The practice of applying for an order to remove seems to be more convenient and less expensive than that of applying for a *certiorari*.

(*ww*) See note (*ll*), *supra*.

(*x*) As to the title, see *Nothard* v. *Proctor* and *Blewitt* v. *Proctor*, V.-C. B., 16 Nov. 1875, Reg. Lib. B. 2872.

1922.

Notice of motion, or summons for writ of *certiorari* to remove action or suit out of the Mayor's Court (*y*). [Dan. Pr. 1919.]

Title and formal commencement, as in Form 1921.

that a writ of *certiorari* may be ordered to issue, directed to the Lord Mayor of the City of London, and his brethren the Aldermen thereof, to certify and remove the plaint in the above-mentioned action [*or*, suit] of B. *v.* D. now depending on the common law [*or*, equity] side of the Mayor's Court, London, with the process and all proceedings thereon, from out of the said Mayor's Court into the Chancery Division of this Court. And that the proper officer may be ordered to receive and file the same. And that the said action [*or*, suit], when removed, may be assigned to Mr. Justice ——, and may be continued and prosecuted in this Court, in the same manner as if it had been originally commenced therein, and assigned to the said Judge.

1923.

Præcipe for the writ (*z*). [Dan. Pr. 1919.]

Title as in Form 1921.

Seal a writ of *certiorari* directed to the Lord Mayor of the City of London, and his brethren the Aldermen of the same City, pursuant to order dated —— day of ——, 188—.

Dated —— day of ——, 188—.

(*Name and address of solicitor or party issuing the writ.*)

1924.

Writ of *certiorari* (*a*). [Dan. Pr. 1919.]

Victoria (*&c.: as in* Form 1910).

To the Lord Mayor of the City of London, and his brethren the Aldermen of the same City, greeting:

We, willing for certain causes to be certified of and upon a certain plaint before you against C. D., at the suit of A. B., lately exhibited and now depending, command you, that the plaint aforesaid, with all things touching the same, by whatsoever names the parties aforesaid, or any or either of them, are or is set down, before us in the Chancery Division of our High Court of Justice, truly, fully, and exactly as in your custody they now remain, under your seals distinctly and openly ye send immediately (*b*), and this writ: that further that we may cause to be done what of right ought to be done.

Witness (*&c.: conclude as in* Form 935).

(*y*) See 20 & 21 Vict. c. clvii., ss. 16, 19, 20. If the application is made at Chambers, it must, unless made in some proceeding already pending in the superior Court, be made by originating summons. It seems a more convenient practice, instead of applying for a *certiorari*, to apply for an order removing the cause; see Form 1921, and note (*w*) thereto. For form of order, see 1 Seton, 327, No. 2.

(*z*) The *præcipe* must bear a stamp of 5*s.* impressed on it: Ord. as to S. C. Fees, 1884, Sched. No. 6; Ord. as to Fees, &c., July, 1884, p. 4.

(*a*) The writ is served by being lodged with the Registrar of the Court. It must be so lodged within a month after service of the plaint, or before the action is entered for trial: 20 & 21 Vict. c. clvii., s. 17; and see s. 18. The service of the writ has the effect of suspending all proceedings in the Mayor's Court; Candy's Mayor's Court Practice, 104.

(*b*) Every writ of *certiorari* to the Mayor's Court must be made returnable immediately: 20 & 21 Vict. c. clvii., s. 52.

(*Same as* Form 3 *or* 4.)

1925. Indorsement on the writ. [Dan. Pr. 1919.]

1926. Return to the writ (*c*). [Dan. Pr. 1919.]

(1.) *To be endorsed on the writ.* The execution of this writ appears in the schedule annexed.

The answer of X. Y., Lord Mayor, and the Aldermen of the City of London.

(2.) *Schedule to be annexed to the writ.*

London [to wit]: We, the Right Honourable X. Y., Lord Mayor, and the Aldermen of the City of London, to our Sovereign Lady the Queen in Her High Court of Justice do most humbly certify: that before the coming of this writ to us directed, and to this schedule annexed, to wit, on the —— day of ——, 188— (*date of filing plaint in the Mayor's Court*), A. B. in the said writ named, in his own proper person, came here into the Court of our said Lady the Queen, holden before the said Mayor and Aldermen in the chambers of the Guildhall in the said city, and then and there, according to the custom of the said city, exhibited a certain plaint against C. D. in the said writ also named; and which said plaint is hereunto annexed.

1927. *Præcipe* of judgment, rule, or order obtained in Mayor's Court (*d*). [Dan. Pr. 1921.]

In the Mayor's Court.
Plaintiff, A. B., of (*address and description*).
Defendant, C. D., of (*address and description*).
Action entered —— day of ——, 188—.
Judgment by default [*or as may be*].
Debt [*or*, damages] in plaint, £——.
Amount for which judgment signed [*or*, order made], £——.
Costs, £——.
Costs of removal, £——.
Judgment entered [*or*, order dated] —— day of ——, 188—.
Execution issued —— day of ——, 188—.
Dated —— day of ——, 188—.
(*Name and address of solicitor or party.*)

1928. Affidavit verifying judgment or order (*e*). [Dan. Pr. 1921.]

Title as in proceedings in the Mayor's Court; formal parts: see Form 6.

1. Judgment was duly signed [*or*, An order was duly made] in the Court of the Mayor and Aldermen of the City of London, on the ——

(*c*) If no return is made, notice should be served under R. S. C. Ord. LII. 11. As to the proceedings after return of the writ, see Dan. Pr. 1919, 1920.

(*d*) See 20 & 21 Vict. c. clvii., s. 48; Brandon's Mayor's Court Practice, pp. 60, 61; and for form of *præcipe*, see *Ibid.*, 119, Form No. XXX. For form of writ of *fieri facias* on the judgment, see R. S. C. App. H., No. 15.

(*e*) See Brandon, pp. 60, 61; and Form No. XXIX.

day of ——, 188—, in a certain action, wherein A. B. was plaintiff, and C. D. was defendant, for the sum of £—— debt [*or*, damages], and £—— costs [*or*, whereby it was ordered that (*Recite the order for payment*)].

2. The parchment [*or*, paper] writing, now produced and shown to me, and marked A (*f*), is the record of the said action, and the judgment of the said Court [*or*, is the order of the said Court] of Mayor and Aldermen, and the said judgment [*or*, order] still remains unreversed and unsatisfied.

3. The signature "——," set and subscribed to the said parchment [*or*, paper] writing, is of the proper handwriting of the proper officer of the said Court of Mayor and Aldermen.

4. (*Show means of knowledge.*)

(3.) *Removal from other Inferior Courts of Record* (*g*).

(*Dan. Pr.*, pp. 1921—1924.)

1929.

Notice of motion or summons to remove judgment or order of inferior Court into the High Court (*h*). [Dan. Pr. 1922.]

In the High Court of Justice, 188—. B. No. ——.
Chancery Division.
(*Name of Judge* (*hh*).)

In the matter of the Act 1 & 2 Vict. c. 110.
And in the matter of a judgment recovered in [*or*, rule—*or*, order—made by] the Court of ——, in an action between A. B. plaintiff, and C. D. defendant.

If the application is made by motion, say: Take notice (*&c.: Proceed as in* Form 38 *to* counsel) on the part of

If the application is made by summons, say: Let (*&c.: Proceed as in* Form 1078, *to* noon), on the hearing of an application on the part of

In either case proceed thus: the above-named A. B. [*or*, C. D.], of (*residence and description*), that the judgment [*or*, rule—*or*, order] of the Court of —— (*Insert style of Court*), dated the —— day of ——, 188—, and made in an action wherein A. B. is plaintiff, and C. D. is defendant, may be removed into the High Court of Justice, pursuant to the statute in that behalf.

Dated (*Conclude as in* Form 1078).

1930.

Affidavit in support. [Dan. Pr. 1922.]

Title as in Form 1929; *other formal parts: see* Form 6.

1. The Court of —— (*style of inferior Court*) is an inferior Court of Record, in which, at the time of the passing of the statute 1 & 2 Vict. c. 110, a barrister of not less than seven years' standing acted as Judge [*or*, assessor—*or*, assistant] in the trial of causes.

2. On the —— day of ——, 188—, A.B. recovered a judgment of the

(*f*) For form of memorandum of exhibit, see Form 28.

(*g*) As to removal of judgments under the Borough and Local Courts of Record Act, 1872 (35 & 36 Vict. c. 86), Sched. r. 9, see Dan. Pr. 1923, 1924.

(*h*) See 1 & 2 Vict. c. 110, s. 22; Chitty's Arch. 1416; Chitty's Forms, 807. If the application is made at Chambers, it will be made by originating summons.

(*hh*) See R. S. C. Ord. V. 9 (*b*), and (*c*); and see note (*ll*), at p. 826.

said Court against C. D. for the sum of £—— debt [*or*, damages], and £—— costs, in an action in which the said A. B. was plaintiff, and the said C. D. was defendant.

Or, By a rule [*or*, order] of the said Court made on the —— day of ——, 188—, in an action wherein the said A. B. was plaintiff, and the said C. D. was defendant, the said C. D. [*or as may be*] was ordered to pay to the said A. B. [*or as may be*] the sum of £——, together with certain costs, as in the said rule [*or*, order] mentioned, and which costs were afterwards duly taxed and allowed at the sum of £——.

3. The parchment [*or*, paper] writing now produced and shown to me and marked A (*h*), is the record of the said judgment [*or*, is the said rule—*or*, order]. The seal thereon is the seal of the said Court of ——, and the signature "——" set and subscribed thereto, is of the proper handwriting of ——, esquire, the Registrar [*or as may be*] and proper officer of the said Court (*i*).

4. The said judgment [*or*, rule—*or*, order] still remains in full force, unreversed and unsatisfied.

5. (*State the ground for the removal of the judgment; as: that defendant's property is situate out of the jurisdiction of the inferior Court.*)

6. (*Show means of knowledge.*)

1931.

Notice of motion or summons for *certiorari* to remove judgment for the purpose of having execution (*j*). [Dan. Pr. 1923.]

In the High Court of Justice, 188—. B. No. ——.
Chancery Division.
(*Name of Judge* (*jj*).)
In the matter of the Act, 19 Geo. 3, c. 70.
And in the matter of a judgment recovered in the Court of —— in an action between A. B., plaintiff, and C. D., defendant.

If the application is made by motion, say: Take notice (*&c.: Proceed as in* Form 38 *to* counsel) on the part of

If the application is by summons, say: Let all parties (*&c.; Proceed as in* Form 1078, *to* noon), on the hearing of an application on the part of

In either case proceed thus: the above-named A. B., of (*address and description*), that a writ of *certiorari* may be ordered to issue to remove an action between A. B. and C. D. in the Court of —— (*style of Court*), together with the record of the judgment thereupon obtained in the said Court, from the said Court into this Court, pursuant to the statute of the 19th of George the 3rd, chapter 70. And that the proper officer may be ordered to receive and file the same.

Dated (*Conclude as in* Form 1078).

(*h*) For form of memorandum of exhibit, see Form 28.

(*i*) See 1 & 2 Vict. c. 110, s. 22.

(*j*) See 19 Geo. III. c. 70, s. 4; Chitty's Arch. 1415, 1416; Chitty's Forms, 805. The application is *ex parte*, and may be made either to the Court or at Chambers: Chitty's Arch. 1415. When made at Chambers, it is made by an originating summons.

(*jj*) See R. S. C. Ord. V. 9 (*b*), and (*c*); and see note (*ll*), at p. 826.

1932.
Affidavit in support. [Dan. Pr. 1923.]

Title as in Form 1931; *other formal parts: see* Form 6.

1. On the —— day of ——, 188—, in an action depending in the Court of ——, wherein A. B. is plaintiff and C. D. is defendant, by a judgment of the said Court, the said A. B. recovered against the said C. D. the sum of £—— debt [*or*, damages], and £—— costs.

2. On the —— day of ——, 188—, a warrant was issued out of the said Court directed to the bailiff thereof [*or as may be*] for the purpose of having execution of the said judgment.

3. (*Show what efforts were made to execute the warrant, showing that diligent search and inquiry were made after the person of the defendant or his effects, and that his person or effects were not to be found within the jurisdiction of the inferior Court.*)

4. I verily believe that the person and effects of the said C. D. are not to be found within the jurisdiction of the said Court of ——.

5. The said judgment remains still in force, unreversed and unsatisfied.

6. (*Show means of knowledge.*)

1933.
Issuing the writ of *certiorari*.

(*Same as* Forms 1909 *to* 1911, *inserting the proper style of the Court.*)

1934.
Return to writ. [Dan. Pr. 1923.]

(*The formal parts of the return are the same as in* Form 1920. *The body of the return should state the main proceedings in the inferior Court: see* Form 1920.)

CHAPTER XXXIV.

SECURITY FOR COSTS (*a*).

(*Dan. Pr.*, pp. 1925—1931, ccccxxi.)

(*a*) *Security for Costs.—Summary of Material Provisions of R. S. C.* 1883.

	ORDER.
Amount of security, &c.—The security must be of such amount, and be given at such times, and in such manner and form, as the Court or a Judge shall direct	LXV. 6.
Bond for security.—Unless otherwise directed, the bond must be given to the party requiring the security, and not to an officer of the Court	,, 7.
Effect of order for security.—The day on which an order for security for costs is served, and the time from such service until security is given, must not be reckoned in computing time allowed for pleading, answering interrogatories, or taking any other proceeding	LXIV. 6.

(1.) *The Application for Security* (*b*).

(A.) *Where the Plaintiff or a Counter-claiming Defendant is resident out of the Jurisdiction* (*c*).

(*b*) *Amount of security.*—See R. S. C. Ord. LXV. 6; and note (*a*), *supra*. This rule practically overrides the rule of the Court of Chancery under which an application for security for costs had to be made at the earliest possible time after knowledge of the circumstance entitling the applicant to security: *Lydney and Wigpool Iron Ore Co.* v. *Bird*, 23 Ch. D. 358. The Court will follow the old rule as to the amount of security for costs, unless some reason be shown for increasing the amount: *Paxton* v. *Bell*, 24 W. R. 1013. By the old rule (Cons. Ord. XL. 6), security for costs was fixed at 100*l*. But in a proper case, the Court will exercise its discretion, and require security of an adequate amount to be given: *Republic of Costa Rica* v. *Erlanger*, 3 Ch. D. 62.

Security for costs generally.—See 1 Seton, 125, 126; 2 Seton, 1643—1645; Wilson, 531, 532; Morgan & Wurtzburg, 7—25; Ann. Pr. 589, 590; Chitty's Forms, 220—226; Chitty's Arch. 1139—1145. As to security for costs from a pauper plaintiff, see Dan. Pr. 84, note (*o*); from a plaintiff in a class suit, *Ibid.*, 84, note (*o*): 234, note (*o*); or suing in a representative capacity, *Ibid.*, 79, note (*q*); from an alien plaintiff, *Ibid.*, 83; from a plaintiff having no permanent residence, *Ibid.*, 322; from ambassador's servants who are plaintiffs, *Ibid.*, 83; from a relator, *Ibid.*, 68, note (*d*); from a retiring next friend, *Ibid.*, 112; from an appellant, *Ibid.*, 1294—6; on striking out the name of a co-plaintiff, *Ibid.*, 263. As to security for costs from a plaintiff or petitioner who has become bankrupt, &c., see Dan. Pr. 1926, note (*g*), and cases there cited. As to whether security for costs will be required from the trustee of a bankrupt, see *Trustee of Pooley* v. *Whetham*, W. N. (1884), 176: 32 W. R. 1017; S. C. 28 Ch. D. 38.

(*c*) *Security for costs on ground of residence out of the jurisdiction.*—As to security for costs on this ground to be given, by (1) plaintiffs, see Dan. Pr. 79—84; (2) petitioner, *Ibid.*, 79, 1562; (3) claimant, *Ibid.*, 1020; (4) person who has obtained an order to continue proceedings, *Ibid.*, 81, 298; (5) counter-claiming

1935.
Summons for security for costs (*d*). [Dan. Pr. 1926.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant C. D. [*or*, of the respondent C. D.—*or*, of the plaintiff], that the plaintiff [*or*, the petitioner—*or*, the defendant C. D. (*e*)], who is resident at ——, in the [kingdom] of ——, out of the jurisdiction of this honourable Court, may be ordered, within —— days, to give security in the sum of £—— (*f*), to answer costs in this action [*or*, matter].

If the application is made by a defendant or respondent, add: And that in the meantime all proceedings in this action [*or*, matter] may be stayed.

If the application is made by one of several defendants or respondents, add: as against the said defendant [*or*, respondent] C. D.

1936.
Affidavit in support (*g*). [Dan. Pr. 1926.]

Formal parts: see Form 6.

1. The above-named plaintiff [*or*, petitioner—*or*, defendant C. D.] is resident at ——, in the [kingdom] of ——, out of the jurisdiction of this honourable Court.

2. (*Show means of knowledge.*)

(B.) *Under the* 10*th Section of the County Courts Act*, 1867.

1937.
Summons for security for costs (*h*). [Dan. Pr. 1903.]

(*Same as* Form 1901.)

1938.
Affidavit in support. [Dan. Pr. 1904.]

(*Same as* Form 1902.)

defendant, *Ibid.*, 81; (6) defendant who has obtained conduct of proceedings, *Ibid.*, 81; (7) defendant in interpleader proceedings, *Ibid.*, 81, 1520. In *Hamburger* v. *Poetting*, 30 W. R. 769, an order was refused where the plaintiff, though resident abroad, had substantial property in England; see *De St. Martin* v. *Davis*, W. N. (1884), 86. See also *Ebrard* v. *Gassier*, W. N. (1885), 1: 33 W. R. 287. A party is not now entitled to security for costs on the ground that the opposite party is resident out of the jurisdiction in Scotland or Ireland: Judgments Extension Act, 1868 (31 & 32 Vict. c. 54), ss. 1, 2, 5; Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 76.

(*d*) The application should be by a summons: see *Vale* v. *Oppert*, 22 W. R. 629; 1 Seton, 125. For forms of order, see 2 Seton, 1643—1645, Nos. 1—3, 5.

(*e*) Security may be required from a counter-claiming defendant.

(*f*) As to the amount of security, see R. S. C. Ord. LXV. 6; and notes (*a*) and (*b*), *supra*.

(*g*) If the fact that the plaintiff, or other person against whom the application is made, is out of the jurisdiction, appears on his proceedings, no affidavit will be required.

(*h*) See 30 & 31 Vict. c. 142, s. 10; and note (*e*), at p. 825.

(C.) *Under the 69th Section of the Companies Act*, 1862.

1939. Summons for security for costs (*i*). [Dan. Pr. 77.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant A. B., that, pursuant to section 69 of "The Companies Act, 1862," the plaintiffs, the —— Company, Limited, may be ordered, within —— days, to give security in the sum of £—— for the said defendant's costs of this action; and that in the meantime all proceedings in this action may be stayed—*If there are other defendants than the applicant, add:* as against the said defendant A. B.

1940. Affidavit in support. [Dan. Pr. 77.]

Formal parts: see Form 6.

1. There is good reason to believe that the assets of the above-named plaintiffs, the —— Company, Limited, will be insufficient for the payment of the costs of the defendant A. B. [*or*, of my costs] of this action, should the said defendant A. B. [*or*, should I] be successful in his [*or*, my] defence.

2. *Show reasonable grounds for such belief; that the plaintiff company are in liquidation is a sufficient ground* (*j*).

3. *Show means of knowledge.*

(2.) *Giving Security* (*k*).

1941. Notice of name of proposed obligor. [Dan. Pr. 1928.]

Formal parts: see Form 37.

Take notice that the plaintiff [*or as may be*] proposes A. B., of (*residence and addition*; *If so:* and C. D., of, *&c.*), as a sufficient person [*or*, sufficient persons] on his behalf to give security, by bond, for costs, pursuant to the order dated the —— of ——, 188—.

1942. Notice of objection to proposed obligor. [Dan. Pr. 1929.]

Formal parts: see Form 37.

Take notice that A. B., in the notice of the —— of ——, 188—, named, as surety for costs, is objected to by me, on the ground that he is not a sufficient person to give such security, in conformity with the order dated the —— of ——, 188—.

(*i*) See the Companies Act, 1862 (25 & 26 Vict. c. 89), s. 69; Morgan & Wurtzburg, 15, 16; Buckley, 170—172; 1 Seton, 126.

(*j*) *Northampton Coal Co.* v. *Midland Waggon Co.*, 7 Ch. D. 500: 26 W. R. 485.

(*k*) See Dan. Pr. 1927. For forms of order for security by bond, see 2 Seton, 1643, No. 1; by payment into Court, *Ibid.*, 1644, No. 2; by bond or payment into Court, *Ibid.*, 1644, No. 3.

1943.

Notice substituting another obligor in lieu of proposed obligor objected to. [Dan. Pr. 1929.]

Formal parts: see Form 37.

Take notice that, in lieu of A. B. (and C. D.) named in the notice, dated the —— day of ——, 188—, the plaintiff [*or as may be*] proposes E. F., of (*residence and addition; If so:* and G. H., of, *&c.*), as a sufficient person [*or*, sufficient persons] (*Continue as in* Form 1941, *to the end*).

1944.

Affidavit of proposed obligor, in justification. [Dan. Pr. 1929.]

Formal parts: see Form 6.

1. I am the person proposed by the plaintiff [*or as may be*] to give security on his behalf, by bond, in the penalty of ——, conditioned to answer costs in this action [*or*, matter—*or*, matter and cause], pursuant to the order dated the —— of ——, 188—.

2. I am well and truly worth the sum of £—— (*Double the amount of security directed*), of lawful money of Great Britain, over and above what is sufficient to pay all my just debts.

1945.

Bond as security for costs (*l*). [Dan. Pr. 1928.]

Know all men by these presents, that I, A. B., of (*residence and addition*), am held and firmly bound

Or, if two obligors, say: that we, A. B., of, *&c.*, and C. D., of, *&c.*, are jointly and severally held and firmly bound to

(*Here insert the names and addresses of the person or persons to whom the bond is to be given*)

in the sum of —— pounds: to be paid to the said E. F., or his certain attorney, executors, administrators, or assigns: for which payment to be well and faithfully made I [*or*, we] bind myself and my [*or*, ourselves and each of us, our and each of our], heirs, executors, and administrators, firmly by these presents, sealed with my seal [*or*, with our seals].

Dated this —— day of ——, 188—.

Whereas, by an order of Her Majesty's High Court of Justice, dated the —— day of ——, 188—, made in an action wherein B. A. is plaintiff [*or*, B. A. and another—*or*, others—are plaintiffs], and D. C. is defendant [*or*, D. C. and another—*or*, others—are defendants],

Or, made in a matter intituled, In the matter of, *&c.*,

on the application of the defendant D. C. [*or as may be*], It was ordered that (*Recite the mandatory part of the order directing the security to be given*): And whereas the above bounden A. B. hath,

(*l*) The bond must be given to the party requiring the security, and not to an officer of the Court: R. S. C. Ord. LXV. 7; and note (*a*), *supra*. The bond should be written on paper, and must bear the like Inland Revenue stamp as a common money bond for a similar amount: being 2*s.* 6*d.* where the sum does not exceed 100*l.*, and 1*s.* 3*d.* for each additional 50*l.* up to 300*l.*, and 2*s.* 6*d.* for every 100*l.*, or fractional part of 100*l.* beyond: see the Stamp Act, 1870 (33 & 34 Vict. c. 97), Sched. Mortgage, Bond, &c.

Or, the above bounden A. B. and C. D. have,
at the request of the said (*Person required to give security*), agreed to enter into the above-written obligation, subject to the condition hereinafter contained:

Now the condition of the above-written obligation is such, that if the above bounden A. B., his

Or, if the above bounden A. B. and C. D., or either of them, their or either of their

heirs, executors, or administrators, do and shall well and truly pay, or cause to be paid, to

If the bond is given to all the defendants, say: all the defendants in the said action

If the bond is given to less than all the defendants, or to respondents, name the particular defendants or the respondents:

all such costs as the said Court shall think fit to award to the said defendants, or to any of them [*or as may be*], in the said action [*or*, matter—*or as may be*], then the above-written obligation is to be void; or else to remain in full force and virtue.

A. B. (Seal).
[C. D. (Seal)].

Signed, sealed, and delivered by the above bounden A. B. (and C. D.), in the presence of,

B. A., of (*residence and addition*).

1946.

Summons for leave to pay security fund into Court, in lieu of bond. [Dan. Pr. 1929.]

Formal parts: see Form 43 or 1077.

on the part of the plaintiff [*or as may be*], that, in lieu of the security directed to be given by the order dated the —— of ——, 188—, he may be at liberty, within (ten) days, to pay £—— into Court to the credit of (*Short title of action or matter, and reference to the record*), to an account to be entitled "Security for costs," to answer costs, in case any costs shall be awarded to be paid by him;

Or, if desired, add: And that the same sum when so paid in may be invested in consolidated £3 per cent. annuities [*or as may be*].

1947.

Notice of payment into Court to answer costs. [Dan. Pr. 1929.]

Formal parts: see Form 37.

Take notice that I have this day paid into Court the sum of £—— to answer costs, pursuant to the order dated the —— day of ——, 188— (*Order directing payment into Court*).

(3.) *Proceedings where no security is given, or where an Insufficient Security is given, or where the Security given becomes Insufficient.*

1948.

Summons for security to be given within a limited time (*m*). [Dan. Pr. 1930.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant C. D. [*or as may be*], that the plaintiff [*or as may be*] may be ordered, within (fourteen) days, pursuant to the order dated the —— day of ——, 188—, to procure some sufficient person on his behalf to give security by bond in the penalty of £100 [*or other sum mentioned in order*], conditioned to answer costs; and that, in the meantime, all proceedings in this action [*or as may be*] may be stayed

If there are other defendants or respondents, add: as against the said C. D.

And that in default of such security being given, this action [*or as may be*] may stand dismissed without further order,

If there are other defendants or respondents, add: as against the said C. D.,

with costs to be paid by the plaintiff [*or as may be*] to the said C. D.

1949.

Summons for better security to be given within a limited time. [Dan. Pr. 1928.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant C. D. [*or as may be*], that in lieu of, or in addition to, the bond of E. F., dated the —— day of ——, 188—, the plaintiff [*or as may be*] may be ordered (*Continue as in* Form 1948. *to the end*).

1950.

Affidavit in support where insufficient security given. [Dan. Pr. 1929.]

Formal parts: see Form 6.

1. E. F., the person named as obligor in the bond dated the —— day of ——, 18—, conditioned to answer the costs of the defendant C. D. [*or as may be*] of this action [*or as may be*], pursuant to the order dated the —— day of ——, 188—, is not a sufficient or proper person to give the security directed by the said order.

2. (*State the facts which have rendered E. F. an insufficient or improper person to give security.*)

3. (*Show means of knowledge.*)

1951.

Summons for a new security to be given, on death or bankruptcy of obligor. [Dan. Pr. 1928.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant A. B. [*or as may be*], that the plaintiff [*or as may be*] may be ordered, within (fourteen) days, to procure some sufficient person on his behalf to give a new security to answer costs, in lieu of, or in addition to, the bond, dated the —— of ——, 188—, given pursuant to the order, dated the —— day of ——, 188—, by E. F., who has since died [*or*, become bankrupt—*or as may be*]; and that

(*m*) For form of order, see 2 Seton, 1541, No. 4.

In the case of an action, say: in the meantime all proceedings in this action may be stayed [*If there are other defendants, add:* as against the said A. B.].

In the case of a petition or summons, say: the said petition [*or,* summons] may stand over until such security is given.

1952.

Affidavit in support. [Dan. Pr. 1928.]

Formal parts: see Form 6.

1. E. F., the obligor named in the bond dated the —— of ——, 188—, which was given as security for costs, pursuant to the order in this action [*or,* matter—*or as may be*], dated the —— of ——, 188—, has since died [*or,* has since been adjudicated a bankrupt].

2. The plaintiff [*or as may be*], the person required by the said order to give security for costs, is still permanently resident at ——, out of the jurisdiction of this honourable Court [*or as may be* (*n*)].

3. (*Show means of knowledge.*)

1953.

Summons for increase of security (*o*). [Dan. Pr. 1927.]

Formal parts: see Form 43 *or* 1077.

on the part of the defendant A. B. [*or as may be*], that in addition to the bond of E. F., dated the —— day of ——, 188—, which was given as security for costs, pursuant to the order in this action [*or as may be*], dated the —— day of ——, 188—,

Or, in addition to the sum of £—— paid into Court on the —— day of ——, 188—, as security for costs, pursuant to the order in this action [*or as may be*] dated the —— day of ——, 188—,

the plaintiff [*or as may be*] may be ordered, within —— days, to give further security in the sum of £—— to answer the said defendant's [*or as may be*] costs of this action [*or as may be*]. And that (*Conclude as in* Form 1935).

1954.

Affidavit in support. [Dan. Pr. 1927.

Formal parts: see Form 6.

1. (*State the proceedings since former order directing security, and probable course of future proceedings, showing that the amount of the security already given is inadequate.*)

2. (*State that the plaintiff against whom the application is made is still resident out of the jurisdiction, or other circumstances entitling the applicant to security.*)

3. (*Show means of knowledge.*)

(*n*) This paragraph is only necessary where the original order for security was obtained on the ground of the plaintiff being resident out of the jurisdiction.

(*o*) See 1 Seton, 125; Morgan & Wurtzburg, 20, 21; Chitty's Forms, 224, note (*d*).

(4.) *Discharging the Order for Security.*

1955.

Summons to discharge order for security. [Dan. Pr. 1930.]

Formal parts : see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the order dated the —— day of ——, 188—, directing security for costs to be given by him, may be discharged : he being now resident at (*State where*), within the jurisdiction of this honourable Court.

(5.) *Payment of Costs out of Security Fund* (*p*).

1956.

Summons for payment of costs out of security fund. [Dan. Pr. 1931.]

Formal parts : see Form 43 *or* 1077.

on the part of the defendant A. B. [*or as may be*] :

If fund invested in stock, say : that so much of the £—— consolidated £3 per cent. annuities [*or as may be*] in Court to the credit of (*Title of action or matter, reference to the record and title of account, as in the Paymaster's certificate*) as will raise £—— cash, the costs certified by the Taxing Master's certificate dated the —— of ——, 188—, and by the order dated the —— day of ——, 188—, directed to be paid to the applicant, together with the applicant's costs of this application : to be ascertained by the Chief Clerk : may be sold ; and that the money to arise by such sale may be paid to Mr. G. H., the applicant's solicitor.

Or, if fund in cash, say : that out of the £—— cash in Court to the credit of (*&c., as above*), £——, the costs (*&c., as above to* Chief Clerk,) may be paid to Mr. G. H., the applicant's solicitor.

(*p*) As to practice on putting in suit the bond given as security, see Dan. Pr. 1930. For form of summons, see Dan. Forms, 3rd ed., Form 1828. The application for leave to put the bond in suit will, it is apprehended, only be necessary where the bond has been given to an officer of the Court.

CHAPTER XXXV.

STAYING PROCEEDINGS AND DISMISSING ACTIONS OTHERWISE THAN AT THE TRIAL (*a*).

(*Dan. Pr.*, pp. 1932—1965, ccccxxi., ccccxxii.)

SECTION I.—GENERALLY.

(*Dan. Pr.*, pp. 1932—1955, ccccxxi.)

(1.) *Where Action or Proceeding commenced without Plaintiff's Authority.*

1957.

Notice of motion by sole plaintiff to stay proceedings in action commenced without his authority (*b*). [Dan. Pr. 314—316, 1934.]

Formal parts : see Form 38.

on the part of A. B., the plaintiff named in the writ of summons issued in this action on the —— day of ——, 188— :

1. That all further proceedings in this action may be stayed : the same having been commenced without the authority of the applicant.

2. That the defendant's costs of this action may be taxed ; and that Mr. C. D., the solicitor by whom the writ of summons in this action was issued, may be ordered to pay such costs to the defendant.

3. That the said C. D. may be ordered to pay to the applicant his costs of this action, if any, and of this application : to be taxed as between solicitor and client.

1958.

Notice of motion by a co-plaintiff, to strike his name out of writ issued without his authority (*c*). [Dan. Pr. 315, 1934.]

Formal parts : see Form 38.

on the part of A. B., one of the plaintiffs named in the writ of summons issued in this action on the —— day of ——, 188—, that his name may be struck out of the said writ of summons, the same having been issued without his authority ; and that Mr. C. D., the solicitor by whom the said writ was issued, may be ordered to pay to the said A. B. his costs, if any, of this action, and his costs of this application : to be taxed as between solicitor and client.

(*a*) As to the various cases in which orders may be obtained for stay or dismissal of actions, see Dan. Pr. 1932, note (*a*) ; see also 1 Seton, 322—326 ; 2 Seton, 1538—1540.

(*b*) For form of order, see 1 Seton, 635, No. 1.

(*c*) *Ibid.*, No. 2.

1959.

Affidavit in support of motion by sole plaintiff, or a co-plaintiff. [Dan. Pr. 315.]

(*Title and reference to the record.*)

I, A. B., of (*residence and addition*), the above-named plaintiff [*or*, one of the above-named plaintiffs], make oath and say as follows:

1. On the —— of ——, 188—, I for the first time became aware that this action had been commenced in my name as the plaintiff [*or*, one of the plaintiffs] therein.

2. I am informed and believe that the object of the said action is (*State object, shortly; as thus:* to have the estate of E. F., deceased, administered under the direction of this honourable Court).

3. Mr. C. D., the solicitor, by whom, as I am informed and believe, the writ of summons in the said action was issued, or any person on his behalf, has never been authorised by me, or by my direction, to commence the said action, or to institute or prosecute any other suit or proceeding in my name, or on my behalf, relating to the subject-matter of the said action. I have never consented to, or acquiesced in, and I desire to repudiate, this action.

4. (*State any communication had with the solicitor who issued the writ, and explain the cause of any delay in applying, since deponent discovered that the action had been instituted.*)

5. (*Show means of knowledge.*)

1960.

Summons to dismiss or stay proceedings on an originating summons, taken out without authority. [Dan. Pr. 968.]

(*Same as* Form 1096.)

1961.

Affidavit in support. [Dan. Pr. 968.]

(*See* Form 1098.)

(2.) *Where Default is made by the Plaintiff in Payment of Costs ordered to be paid by him.*

1962.

Notice of motion or summons to stay proceedings till costs are paid. [Dan. Pr. 1942.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the defendant A. B., that all further proceedings in this action

If there are other defendants, add: as against the said defendant

may be stayed, until after the plaintiffs shall have paid to the said defendant the sum of £——, the amount of the taxed costs directed to be paid by them to him,

If the costs were ordered to be paid by an order made in a former action brought by the plaintiff for the same purpose, say: by the

order made in the action of C. *v.* B., 188—, C. No. ——, dated the —— of ——, 188— (*d*).

But if the order was made in the action in which the application is made, say: by the order dated the —— day of ——, 188— (*e*).

1963. Further notice of motion or summons for dismissal of action, in default of payment (*f*). [Dan. Pr. 1942.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the defendant A. B., that the plaintiffs may be ordered, on or before the —— of ——, 188—, to pay to the defendant the sum of £——, mentioned in the order in this action dated the —— of ——, 188— [*If so:* pursuant to the order made in the action of C. *v.* B. (188—, C. No. ——), dated the —— of ——, 188—]; or in default thereof, that this action may stand dismissed

If there are other defendants, add: as against the said defendant, without further order: with costs to be paid by the plaintiffs to the said defendant.

(3.) *Where the Action is Frivolous and Vexatious.*

1964. Notice of motion or summons to stay proceedings in action which is frivolous and vexatious (*g*). [Dan. Pr. 1934.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the defendant A. B., that all further proceedings in this action may be stayed

If there are other defendants than the applicant, add: as against the said defendant A. B.,

on the ground that this action is frivolous and vexatious, and an abuse of the process of the Court.

(4.) *Where Defendant submits to Satisfy Plaintiff's Demand* (*h*).

1965. Notice of motion or summons by defendant to stay proceedings on submitting to satisfy plaintiff's demand. [Dan. Pr. 1940.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the defendant A. B., that (*Here state the terms proposed; as thus:*

upon payment to the plaintiff of £——, being the amount of the debt due from X. Y., deceased, in the writ of summons in this action named, to the plaintiff, and of interest thereon at £—— per

(*d*) See R. S. C. Ord. XXVI. 4; and see *Re Payne, Randle* v. *Payne*, 23 Ch. D. 288: 31 W. R. 509; *Martin* v. *Earl Beauchamp*, 25 Ch. D. 12: 32 W. R. 17. A County Court Judge can stay proceedings until costs of a previous action in the Superior Court are paid: *Reg.* v. *Bayley*, 30 W. R. 522. The application should be made before taking any step in the new action.

(*e*) For form of order, see 2 Seton, 1539, No. 4.

(*f*) For form of order, see 2 Seton, 1542, No. 5. As to the effect of an order in this form, see *Whistler* v. *Hancock*, 3 Q. B. D. 83.

(*g*) See R. S. C. Ord. XXV. 4; and see Form 613.

(*h*) For form of order to stay proceedings without costs on submission by defendant to the plaintiff's demand, see 2 Seton, 1539, No. 5. As to stay of proceedings in case of a liquidated demand, upon payment by defendant of the amount claimed by the indorsement on the writ, see R. S. C. Ord. III. 7; and as to stay of proceedings in an action to recover a debt or damages, see R. S. C. Ord. XXII. 1, 6 (*a*).

cent. per annum from the —— day of ——, 188—, until payment; *or*,

upon delivery to the plaintiff of the furniture and goods mentioned in the writ of summons in this action; *or as may be*),

and upon payment to the plaintiff of his costs of this action, to be taxed, all further proceedings in this action may be stayed (*If there are other defendants than the applicant, add:* as against the said defendant A. B.).

1966.

Another form thereof. [Dan. Pr. 1940.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the defendant, that, upon payment to the plaintiff of the sum of £—— in respect of his claim for damages for the breach of the contract mentioned in the writ of summons [*or as may be*], and of his costs of this action, to be taxed, all further proceedings therein may be stayed; and that, in the event of the plaintiff refusing to accept the said sum of £——, the defendant may be at liberty to pay the same into Court to the credit of this action. And that, in the event of the plaintiff subsequently taking the said sum of £—— out of Court in satisfaction of his said claim, or of his proceeding to trial and not recovering more than the said sum in respect of his said claim, the plaintiff may be ordered to pay to the defendant his costs of this action subsequent to this application.

(5.) *On Special Terms agreed on by the Parties.*

1967.

Motion paper to stay proceedings on special terms by consent (*i*). [Dan. Pr. 1942.]

Formal parts: see Form 36.

To move on behalf of all parties [*or*, of the plaintiff—*or*, of the defendants—*or as may be* (*j*)], that, by consent, all further proceedings in this action may be stayed, without costs [*or*, on the terms within mentioned—*or as may be*].

1968.

Petition of course for the like (*k*). [Dan. Pr. 1942.]

Formal parts: see Form 39.

The humble petition of the plaintiff [*or as may be*].

Showeth as follows:

1. *State the proceedings in the action; as thus:* On the —— day of ——, 188—, your petitioner [*or*, the plaintiff] issued his writ of summons in this action, and the defendant [*or*, your petitioner] duly appeared thereto; and on the —— day of ——, 188—, judgment was given therein, whereby certain accounts and inquiries were directed to be taken and made, but the Chief Clerk has not yet made his certificate of the result thereof [*or as may be*].

(*i*) For form of order, see 2 Seton, 1539, No. 6.

(*j*) If the motion is not made on behalf of all parties, a brief must be given to counsel to appear and consent on behalf of the other parties.

(*k*) For form of consent, see Form 42.

2. Your petitioner has now agreed with the defendant [*or as may be*], that all further proceedings in this action shall be stayed upon the terms following, that is to say: (*State the terms; as thus:*

that each party shall pay his own costs of this action. *Or*,

that the defendant shall pay to the plaintiff his costs of this action, to be taxed. *Or*,

that the defendant shall pay to the plaintiff £100 on or before the —— day of ——, 188—, together with his costs of this action, to be taxed).

Your petitioner therefore humbly prays, that all further proceedings in this action may be stayed on the terms aforesaid.

1969.

Notice of motion or summons for the like. [Dan. Pr. 1942.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that, by consent, all further proceedings in this action may be stayed on the terms following, that is to say: (*State the terms*); and that all proper directions may be given for carrying the said terms into effect.

1970.

Special petition for the like. [Dan. Pr. 1942.]

Formal parts: see Form 40.

1. *State the proceedings in the action, the terms agreed upon, and any other facts and circumstances material in the particular case: see* Form 1968.

Your petitioner therefore humbly prays, that all further proceedings in this action may be stayed upon the terms agreed upon as aforesaid, and that all proper directions may be given for carrying the said terms into effect.

Or that (*Conclude as in* Form 40; *and add foot note*, Form 41).

1971.

Notice of motion or summons to enforce an agreement for the compromise of an action (*l*). [Dan. Pr. 1942.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the defendant [*or as may be*], that all further proceedings in this action may be stayed, in accordance with the terms of an agreement for the compromise of this action, made between the plaintiff of the one part and the defendant of the other part, and dated the —— day of ——, 188—. And that the plaintiff may be ordered to pay to the defendant his costs of this application, to be taxed.

(*l*) See the Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 24, sub-ss. 5, 7. As to sanction of a compromise on behalf of infants, see 2 Seton, 716.

(6.) *Where the Matters in Dispute have been agreed to be Referred to Arbitration* (*m*).

1972.

Notice of motion or summons to stay action, after a reference agreed on. [Dan. Pr. 1934—1938.]

Formal parts : see Form 38, *or* 43 *or* 1077.

on the part of the defendant, that pursuant to the Common Law Procedure Act, 1854, s. 11, all proceedings in this action may be stayed : the matters in difference therein between the parties thereto having been agreed to be referred to arbitration.

(7.) *In other Cases.*

1973.

Applications to stay proceedings in cases other than those above mentioned.

See the following Forms, ante.

Where an action is brought in the name of an infant : Form 78 (*n*).

Where several actions are brought for the same purpose in the name of an infant : Forms 79 to 82 (*o*).

Where an infant plaintiff comes of age : Forms 84 to 87 (*p*).

Where judgment has been given in another action or proceeding for the same purpose : Form 1880 (*q*).

Where several actions are brought raising the same question : Form 1882 (*r*).

Where the plaintiff is ordered to give security for costs : Forms 1935 to 1940 (*s*).

Pending an appeal : Form 1448 (*t*).

Section II.—Dismissal for Want of Prosecution.

(*Dan. Pr.*, pp. 1956—1960, ccccxxi., ccccxxii.)

1974.

Applications to dismiss for want of prosecution in various cases.

See the following Forms, ante.

On default of plaintiff in delivery of statement of claim : Form 615 (*u*).

On default of plaintiff in giving notice of trial : Form 810 (*v*).

(*m*) See the C. L. P. Act, 1854 (17 & 18 Vict. c. 125), s. 11 : *Compagnie du Senegal* v. *Smith & Co.*, W. N. (1883), 180 : 32 W. R. 111.

(*n*) See Dan. Pr. 108.

(*o*) See notes to Forms 79—82 ; Dan. Pr. 107, 108.

(*p*) See notes to Forms 84—87 ; Dan. Pr. 114, 115.

(*q*) See Dan. Pr. 1891, 1948—1953.

(*r*) See Dan. Pr. 459, 1891, 1892, 1948—1954.

(*s*) For case in which a stay of proceedings was ordered until security for damages given, see *Richards* v. *Howell*, W. N. (1883), 159 ; 168.

(*t*) See Dan. Pr. 1278—1282.

(*u*) See Dan. Pr. 554—556. For form of order, see 2 Seton, 1540, No. 1.

(*v*) See Dan. Pr. 562, 563. For form of order, see 2 Seton, 1541, No. 3.

For security for costs within a limited time, and in default for dismissal: Form 1948 (*w*).

On default of plaintiff in filing answer to interrogatories, or affidavit of discovery, or in giving inspection: Forms 1834, 1868 (*x*).

Section III.—Where the Suit has become Defective.

(*Dan. Pr.*, pp. 1961—1964, ccccxxii.)

1975.

Notice of motion to dismiss action unless prosecuted by plaintiff's successors. [Dan. Pr. 288, 1961, 1962.]

Formal parts: see Form 38.

on the part of the defendant A. B., that

Where the action was brought by a sole plaintiff, say: C. D. and E. F., the legal personal representatives [*or as may be*] of the (late) plaintiff G. H., now deceased [*or as may be*],

Where the action was brought by several plaintiffs, say: the plaintiffs J. K. and L. M. (*continuing plaintiffs*)

may be ordered within one month to obtain and serve on him an order to carry on and prosecute the proceedings in this action against the said defendant. And that in default thereof, this action may stand dismissed

If there are other defendants than the applicant, add: as against the said defendant A. B.,

for want of prosecution, without further order: with costs to be paid to the said defendant.

1976.

Notice of motion to dismiss action unless prosecuted against defendant's successors (*y*). [Dan. Pr. 288, 1962.]

Formal parts: see Form 38.

on the part of P. Q., of (*residence and addition*), and R. S., of (*residence and addition*), the legal personal representatives [*or as may be*] of the late defendant A. B., now deceased [*or as may be*], that the plaintiff may be ordered within one month to obtain and serve on them an order to carry on and prosecute the proceedings in this action against the said P. Q. and R. S. And that in default thereof, this action may stand dismissed

If there are other defendants than A. B., add: as against the said P. Q. and R. S.

for want of prosecution, without further order.

(*w*) See Dan. Pr. 1929, 1957. For form of order, see 2 Seton, 1541, No. 4.

(*x*) See Dan. Pr. 1829, 1851. For form of order, see 2 Seton, 1541, No. 2.

(*y*) As to application by summons to compel the plaintiff (or person entitled to proceed) to proceed with the action against the defendant (or person against whom the action might have been continued), where cause of action survives, see R. S. C. Ord. XVII. 8; and Forms 189, 190.

1977.

Notice of motion that trustee of bankrupt plaintiff proceed with action, or, in default, for dismissal (*z*). [Dan. Pr. 1962, 1963.]

Formal parts: see Form 38.

on the part of the defendant A. B. [*or as may be*], that X. Y., the trustee in bankruptcy of the plaintiff,

If before judgment, say: may be ordered within one month to obtain and serve on the applicant an order to carry on and prosecute the proceedings in this action against the applicant.

If after judgment, say: may be ordered within one month to give notice in writing to the applicant stating whether he elects to continue this action against him.

And that in default thereof this action may stand dismissed [*Or, if after judgment, say:* all proceedings in this action may be stayed], without further order.

If there are other defendants than the applicant, add: as against the applicant.

Section IV.—Cases of Election.

(*Dan. Pr.*, pp. 1964, 1965, ccccxxii.)

1978.

Notice of motion for plaintiff to elect which of two actions he will proceed with, where one action is in a foreign country (*a*). [Dan. Pr. 1964, 1965.]

Formal parts: see Form 38.

on the part of the defendant [*or as may be*], that the plaintiff may be ordered within seven days after the order to be made hereon, to elect whether he will proceed with this action so far as the same relates to the cargoes of the ships (*naming them*), or with the action brought by him in the Tribunal of Commerce of the Department of the Seine at Paris [*or as may be*], in respect of the cargoes of the said ships; or that such further or other order may be made hereon as to this Court may seem fit.

(*z*) For the rules as to costs in such case, see Dan. Pr. 1962, 1963. If the trustee in bankruptcy of a party to the action elects to proceed with it, he renders himself liable to the opposite party for the costs which have been already incurred therein: *Borneman* v. *Wilson*, 28 Ch. D. 53: 33 W. R. 141.

(*a*) See *Peruvian Guano Co.* v. *Bockwoldt*, 23 Ch. D. 225: 31 W. R. 851.

CHAPTER XXXVI.

SPECIAL CASE (*a*).

(*Dan. Pr.*, pp. 1966—1970, ccccxxii.)

(*a*) *Special Case.—Summary of Material Provisions of R. S. C.* 1883.

	ORDER.	
Special case by consent.—The parties to any cause or matter may concur in stating the questions of law arising therein in the form of a special case for the opinion of the Court . . .	XXXIV.	1.
Form of special case.—Every special case must be divided into paragraphs numbered consecutively, and must state concisely such facts and documents as may be necessary to decide the questions raised thereby. Upon the argument the Court may refer to the whole contents of such documents, and may draw any inferences, whether of fact or law	,,	1.
Special case by order.—If there is in any cause or matter a question of law, which it would be convenient to have decided before any evidence is given, or any question or issue of fact is tried, or before any reference to a referee or arbitrator, an order may be made directing such question of law to be raised for the opinion of the Court, either by special case, or in such other manner as the Court or a Judge may deem expedient; and all such further proceedings as the decision of such question of law may render unnecessary may thereupon be stayed . .	,,	2.
Printing, &c.—Every special case must be printed by the plaintiff, signed by the several parties or their counsel or solicitors, and filed by the plaintiff. Printed copies for the use of the Judges must be delivered by the plaintiff. [As to printing, see R. S. C. Ord. LXVI. 7.]	,,	3.
Leave to set down, in case of parties under disability.—No special case to which a married woman (not being a party thereto in respect of her separate property or of any separate right of action by or against her), infant, or person of unsound mind not so found is a party, can be set down without leave of the Court or a Judge, upon sufficient evidence that the statements affecting the interest of the party under disability are true .	,,	4.
Entry for argument.—A special case may be entered by either party on production to the proper officer of a memorandum in prescribed form (App. G., No. 25), and production of a copy of the order (if any) giving leave to enter the same for argument.	,,	5.
Agreement as to payment of money and costs.—The parties may agree in writing that on the judgment of the Court being given a sum of money, fixed by the parties, or to be ascertained by the Court, be paid by one of the parties to the other, either with or without costs, and judgment may be entered and execution issued accordingly	,,	6.
Application of the order.—This order is to apply to every special case stated in a cause or matter, or in any proceeding incidental thereto	,,	7.
Special case under 13 & 14 *Vict. c.* 35.—Any special case may hereafter be stated for the same purposes and in the same manner as provided by 13 & 14 Vict. c. 35, and the same will		

ORDER.

be deemed a special case stated in a matter within the meaning of this Order . . . . . XXXIV. 8.

Special case in interpleader proceedings.—A special case may be directed to be stated: the provisions of R. S. C. Ord. XXXIV. being applied thereto . . . . . LVII. 9.

Hearing before a Divisional Court.—By consent of the parties a special case may be argued before a Divisional Court . . . LIX. 1 (*h*).

From the above rules it will be seen that there are *three* modes in which a special case may be stated, viz.: (1) By consent of the parties in any *cause or matter*, R. S. C. Ord. XXXIV. 1. The language of the present rule is wider than that of the corresponding rule of R. S. C. 1875, under which a special case could only be stated by consent in an action after issue of the writ of summons. (2) By order of the Court or a Judge, R. S. C. Ord. XXXIV. 2. (3) As an original proceeding, as provided by Sir G. Turner's Act (13 & 14 Vict. c. 35), R. S. C. Ord. XXXIV. 8. The last-mentioned Act has been repealed by 46 & 47 Vict. c. 49. "Having regard to R. S. C. Ord. XXXIV. r. 7, it is conceived that the intention of the rule (*i.e.*, r. 8) was to reaffirm the right to a special case under the specified circumstances, but not to revive the cumbrous practice thereon," Wilson, 326. See Ann. Pr. 357. It has not been thought necessary to retain in the present edition of this work the forms for appointment of special guardian of persons under disability (see 13 & 14 Vict. c. 35, ss. 5, 6, 7, 9), as it is conceived that the concurrence of the guardian *ad litem* or next friend will be sufficient, R. S. C. Ord. XVI. 21; see 1 Seton, 44; Ann. Pr. 357. For forms in connection with appointment of special guardians, see Dan. Forms, 3rd Ed. Forms 1540—1543; for form of order, see 1 Seton, 44, No. 5. As to a special case generally, see 1 Seton, 43—49; Wilson, 323—326; Morgan, 400—405; Chitty's Arch. 729—731; Chitty's Forms, 680—685. As to the costs of a special case, see Morgan & Wurtzburg, 91—93.

1979.

Notice of motion or summons that a special case may be stated (*b*).
[Dan. Pr. 1967, ccccxxii.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that a special case may be stated in this action, raising the following questions of law for the opinion of this Court, that is to say:

1. Whether, *&c.*
2. Whether, *&c.*

And that all other proceedings in this action may be stayed until after the determination of such questions.

1980.

Notice of motion or summons that question of law may be set down for argument (*b*).
[Dan. Pr. 1966.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that the following question of law may be set down to be argued before the Court, viz., whether, *&c.*; and that upon such argument the Court and the parties may be at liberty, in addition to reading the pleadings in this action, to refer to the whole contents of any documents mentioned or referred to in such pleadings. And that all other proceedings in this action may be stayed until after the determination of such question.

(*b*) See R. S. C. Ord. XXXIV. 2; and note (*a*), *supra*; *Tattersall* v. *National Steamship Co., Limited*, W. N. (1884), 32. As to the time for making the application, see Dan. Pr. 1967. For form of order to set down a question of law for argument without stating a special case, see 1 Seton, 45, No. 7.

1981.

Special case (*c*). [Dan. Pr. 1967.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . Plaintiff,
and
C. D. . . . Defendant.

Special case stated by consent [*or*, by order, dated —— day of ——, 188—] for the opinion of the Court, pursuant to the Rules of the Supreme Court, Ord. XXXIV.

1.
2.
3.
4. } *Here state concisely, in paragraphs numbered consecutively, such facts and documents as may be necessary to enable the Court to decide the questions raised.*

The questions submitted for the opinion of the Court, are :

1. Whether, *&c.*
2. Whether, *&c.*

A. B. [*or*, X. Y., counsel—*or*, solicitor—for], the above-named plaintiff.
C. D. [*or*, T. Z., counsel—*or*, solicitor—for], the above-named defendant (*d*).

NOTE.—This special case is filed by X. Y., of (*place of business*), solicitor for the above-named plaintiff.

1982.

Notice of filing special case.

Formal parts : see Form 37.

Take notice that I have this day filed the special case stated in this action [*or*, matter].

1983.

Petition of course to amend special case by consent (*e*). [Dan. Pr. 1968.]

Formal parts : see Form 39.

The humble petition of the plaintiff.

Showeth as follows :

1. Pursuant to the Rules of the Supreme Court, Ord. XXXIV., a special case has by consent [*or*, by order, dated —— day of ——, 188—] been stated and filed in this action [*or*, matter].

(*c*) As to the form of a special case, see R. S. C. Ord. XXXIV. 1. As to printing, *Ibid.*, 3 ; Ord. LXVI. 7 ; and note (*a*), *supra*. The case must be filed by the plaintiff in the Central Office, or the District Registry : R. S. C. Ord. XXXIV. 3 ; and note (*a*), *supra*. On filing it a fee is payable of 1*l.* : by a stamp impressed, where practicable on the special case, and in other cases on a *præcipe* to be filed : Ord. as to S. C. Fees, 1884, Sched. No. 28 ; Ord. as to Fees, &c., July, 1884, p. 6.

(*d*) See R. S. C. Ord. XXXIV. 3 ; and note (*a*), *supra*. In *Hare* v. *Hare*, W. N. (1876), 44, it was decided that the signature of counsel was not necessary to a special case, but the language of R. S. C. Ord. XXXIV. 3, differs from that of the corresponding rule of R. S. C. 1875. It is presumed that the provisions of R. S. C. Ord. XIX. 4, under which a pleading, if settled by counsel, must be signed by him, apply to a special case.

(*e*) For form of consent to the petition, see Form 42.

2. The said case has not been set down for argument.
3. Your petitioner is now advised to amend the said case.

Your petitioner therefore humbly prays that, by consent of the defendant, he may be at liberty to amend the said special case as he may be advised.

1984.

Notice of motion or summons to amend special case (*f*). [Dan. Pr. 1968.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that he may be at liberty to amend the special case stated and filed in this action [*or*, matter], pursuant to the Rules of the Supreme Court, Ord. XXXIV., by (*Here specify the amendment which it is desired to make*); and that the costs of this application may be costs in the action [*or*, matter].

1985.

Memorandum of appearance (*g*).

(*Short title and reference to the record.*)

Enter an appearance for C. D., to special case [*or*, amended special case] at the suit of A. B.

Dated this —— day of ——, 188—.

(*Name, &c., of solicitor or party entering the appearance.*)

1986.

Notice of appearance.

Formal parts: see Form 37.

Take notice that I have this day entered an appearance for the defendant C. D. to the special case [*or*, amended special case] herein.

1987.

Notice of motion or summons for leave to set down special case (*h*). [Dan. Pr. 1969.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that he may be at liberty to set down for argument the special case stated and filed in this action, pursuant to the Rules of the Supreme Court, Ord. XXXIV.

1988.

Affidavit in support (*i*). [Dan. Pr. 1969.]

(*This affidavit must prove the statements in the special case affecting the person under disability. It is not sufficient to allege generally that such statements are true; their truth must be proved by some competent witness.*)

(*f*) After judgment has been given on a special case, it cannot be amended and reheard: *Re Taylor, Tomlin* v. *Underhay*, 22 Ch. D. 495. Where a special case is stated by consent, after it has been finally agreed and signed, it can only be reopened by mutual consent: *Hamilton, Fraser & Co.* v. *Staley, Radford & Co.*, 28 Sol. J. 478. An application for leave to amend should, as a rule, be made by summons, where not consented to: see R. S. C. Ord. LV. 2 (17).

(*g*) An appearance is necessary only where a special case is stated as an original proceeding under R. S. C. Ord. XXXIV. 8: see note (*a*), *supra*.

(*h*) See R. S. C. Ord. XXXIV. 4; and note (*a*), *supra*. The application is usually made by summons. For form of order on motion, see 1 Seton, 44, No. 6.

(*i*) See R. S. C. Ord. XXXIV. 3; and note (*a*), *supra*.

1989.

Memorandum on entering special case for argument (*j*). [Dan. Pr. 1969.]

(*Title and reference to the record.*)

Set down the special case herein for hearing.

Dated —— day of ——, 188—.

X. Y., of (*address*),

Solicitor for the plaintiff [*or*, defendant].

1990.

Notice that special case set down for argument (*k*). [Dan. Pr. 1969.]

Formal parts : see Form 37.

Take notice that I have this day set down for argument the special case stated and filed in this action [*or*, matter].

1991.

Brief on argument (*k*). [Dan. Pr. 1969, note (*i*).]

(1) Contents.

188—. B. No.

(1) In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Between A. B. . . . Plaintiff,
and
C. D. . . . Defendant.

Brief for the plaintiff [*or*, defendant].

Observations.

Here copy any necessary observations.

Fold the brief longways and indorse it thus :

(2) Indorsement.

(2.) In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

Brown *v.* Dobinson } Brief on argument of special case, stated pursuant to R. S. C., Ord. XXXIV.

For the plaintiff [*or*, defendant].

Mr. X.

(*Continue as in* Form 832.)

(*j*) See R. S. C. App. G., No. 25. A copy of the order (if any), giving leave to enter the special case for argument must be produced at the time of setting down : R. S. C. Ord. XXXIV. 5 ; and note (*a*), *supra*. On entering, a fee of 2*l.* is payable by a stamp impressed on the memorandum : see Ord. as to S. C. Fees, 1884, Sched. No. 52 ; Ord. as to Fees, &c., July, 1884, p. 8.

(*k*) The brief should consist of all the pleadings (if any) in the action, a copy of the special case, copies of any material documents not fully stated in the pleadings or the special case, and of such observations as may be necessary. For forms of order made on the hearing of special cases, see 1 Seton, 44, Nos. 2—4.

CHAPTER XXXVII.

SOLICITORS (*a*).

(*Dan. Pr.*, pp. 1971—2036, ccccxxii., ccccxxiii.)

SECTION I.—SUMMARY JURISDICTION (*b*).

(*Dan. Pr.*, pp. 1971—1990, ccccxxii., ccccxxiii.)

(1.) *Striking off the Roll.*

1992.

Motion paper by a solicitor to be struck off the roll (*c*).

In the High Court of Justice,
Chancery Division.

In re A. B., a Solicitor of the Supreme Court.

To move on behalf of the said A. B., of (*Place of business*), that he may be struck off the roll of solicitors of the Supreme Court.

An affidavit in support accompanies.

1993.

Petition of course, for the like (*d*).

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*dd*).)

In the matter of A. B., a Solicitor of the Supreme Court.
(*Address: as in* Form 39.)

The humble petition of the above-named A. B., of (*Place of business*).

Showeth as follows:

If the applicant was admitted prior to November, 1875, *proceed thus:*

1. In —— term, 18—, your petitioner was duly admitted a solicitor

(*a*) As to the admission and re-admission of solicitors, and generally as to their duties and liabilities, see 6 & 7 Vict. c. 73, as amended by 7 & 8 Vict. c. 86; 14 & 15 Vict. c. 88; 23 & 24 Vict. c. 127; 33 & 34 Vict. c. 28; 36 & 37 Vict. c. 66, s. 87; 37 & 38 Vict. c. 68; 38 & 39 Vict. c. 77, s. 14; 40 & 41 Vict. c. 25; 44 & 45 Vict. c. 68, s. 24; 1 Chitty's Arch. 29—160; Chitty's Forms, 1—50; Pulling's Law of Attorneys, *passim*; 1 Seton, 653, 654.

(*b*) See 1 Seton, 648—654. As to cases in which under R. S. C. 1883, a solicitor is liable to attachment, see Ord. XII. 18; Ord. XXXI. 23. As to attachment against a solicitor for disobedience to an order for payment of a sum of money to his client, see Dan. Pr. 882, 1973; *Re Dudley*, 12 Q. B. D. 44: 32 W. R. 264.

(*c*) As to striking a solicitor off the Roll at his own request, see 1 Seton, 653; Chitty's Arch. 157; Chitty's Forms, 27. The order must, before being acted upon, be produced to the Registrar of Solicitors, for the purpose of being entered by him: 23 & 24 Vict. c. 127, s. 24; and must then be filed with the Clerk of the Petty Bag: Rules and Regulations, Nov. 1875, p. 10. Whether, since R. S. C. Ord. V. 9, an application can be made by motion of course, *quære*.

(*d*) For forms of order, see 1 Seton, 651, Nos. 1, 2.

(*dd*) See R. S. C. Ord. V. 9 (*d*).

of the High Court of Chancery, and an attorney of the Courts of Queen's Bench, Common Pleas, and Exchequer of Pleas.

2. Your petitioner is now desirous of having his name struck off the roll of solicitors.

But if the applicant was admitted in or after November, 1875, say:

1. On the —— day of ——, 18—, your petitioner was duly admitted a solicitor of the Supreme Court of Judicature.

2. Your petitioner is now desirous of having his name struck off the roll of solicitors of the said Supreme Court (*e*).

Your petitioner therefore humbly prays,

If the applicant was admitted prior to November, 1875, proceed thus:

that he may be struck off the roll of solicitors of every Court the jurisdiction whereof has been transferred to the High Court of Justice.

But if the applicant was admitted in or after November, 1875, say:

that he may be struck off the roll of solicitors of the Supreme Court of Judicature.

1994. Affidavit in support of motion or petition.

(*Title: as in* Form 1993.)

I, the above-named A. B., of (*Place of business*), gentleman, make oath and say as follows:

If the applicant was admitted prior to November, 1875, proceed thus:

1. In —— term, 18—, I was duly admitted a solicitor of the High Court of Chancery, and an attorney of the Courts of Queen's Bench, Common Pleas, and Exchequer of Pleas.

2. I am now desirous of having my name struck off the roll of solicitors.

But if the applicant was admitted in or after November, 1875, say:

1. On the —— day of ——, 18—, I was duly admitted a solicitor of the Supreme Court of Judicature.

2. I am now desirous of having my name struck off the roll of solicitors of the said Court.

In either case, conclude thus:

3. No application or other proceeding is now pending in this honourable Court, or elsewhere, against me as such attorney and solicitor [*or*, as such solicitor] as aforesaid; and I do not expect or apprehend that any application or proceeding will be made or taken against me as such attorney and solicitor [*or*, as such solicitor] as aforesaid.

(*e*) It is not necessary to assign any ground for making the application: *Ex parte Charnock*, 1 W. W. & H. 548; *Ex parte Burrell*, 11 Jur. 1062; Chitty's Arch. 157.

1995.

Notice to registrar of solicitors of intended application to strike a solicitor off the roll (*f*).

(*Title: as in* Form 1993.)

Take notice that C. D., of (*address and description*), intends to apply to the High Court of Justice, at the expiration of fourteen clear days after the service of this notice upon you, or so soon thereafter as counsel can be heard on behalf of the said C. D., for an order to strike the said A. B. off the roll of solicitors of the Supreme Court. And take also notice that copies of the affidavits intended to be used in support of such application accompany this notice.

Dated —— day of ——, 188—.

(*Name and address of solicitor or party giving the notice.*)

To the Registrar of Solicitors.

1996.

Notice of motion to strike a solicitor off the roll (*g*). [Dan. Pr. 1972.]

Title: as in Form 1993; *other formal parts: see* Form 38.

on behalf of C. D., of (*address and description*), that the above-named A. B. may be struck off the roll of solicitors of the Supreme Court, on the ground that (*State in general terms the grounds of the application* (*h*)); and that the said A. B. may be ordered to pay the costs of this application.

(2.) *Enforcing Solicitor's Lien* (*i*).

1997.

Petition to charge fund in Court with amount of solicitor's taxed costs. (*j*). [Dan. Pr. 1989.]

(*Title of action or matter, and reference to the record.*)

To Her Majesty's High Court of Justice.

The humble petition of L. M., of (*Place of business*), gentleman, a solicitor of the Supreme Court.

Showeth as follows:

1. *State the retainer of the petitioner by the party to whom the fund*

(*f*) As to striking a solicitor off the Roll for misconduct, see 37 & 38 Vict. c. 68, ss. 7—9; 1 Seton, 653, 654; Chitty's Arch. 154—157; Chitty's Forms, 28. The notice must be given *fourteen clear days* before the application is made. An affidavit of service of the notice and of delivery of the copies of affidavits must be produced in Court.

(*g*) See 1 Seton, 653. No motion or application for a rule *nisi* or order to show cause is to be made: R. S. C. Ord. LII. 2; see *Re Copp*, 32 W. R. 25. An order striking a solicitor off the Roll may be appealed from: *Re Hardwick*, 12 Q. B. D. 148: 32 W. R. 191.

(*h*) See R. S. C. Ord. LII. 4. A copy of any affidavit intended to be used must be served with the notice of motion, *Ibid.* The notice of motion must be a *ten clear days*' notice: R. S. C. Ord. LII. 5.

(*i*) As to a solicitor's lien, see Dan. Pr. 1975—1984; 1 Seton, 637—645; Morgan & Wurtzburg, 551—566; Chitty's Arch. 137—145.

(*j*) *Charging order for solicitor's costs.*—See 23 & 24 Vict. c. 127, s. 28; Dan. Pr. 1985—1990; 1 Seton, 641—645; Morgan & Wurtzburg, 567—573; Morgan, 16—18; Ann. Pr. 125; Chitty's Arch. 141, 142; Chitty's Forms, 48—50. The petition need not be entitled in the matter of the Act, or of the solicitor: *Hamer v. Giles*, *Giles* v. *Hamer*, 11 Ch. D. 942. For forms of order on petition, see 1 Seton, 641, 642, Nos. 1, 2: 643, No. 1. The application must be heard by the Judge before

recovered belongs, the institution of proceedings by the petitioner on behalf of such party, and the subsequent prosecution of such proceedings, showing that they resulted in the recovery of the fund in question.

Your petitioner therefore humbly prays as follows:

1. That it may be declared that the petitioner, as the solicitor employed by the plaintiff in the prosecution of this action [*or*, matter], is entitled to a charge upon (*Describe the fund; as thus:* the said £5,000 consolidated £3 per cent. annuities in Court to the credit of this action [*or*, matter], B. *v.* D. 1876, B. 100, "The account of, *&c.*," and on the £300 cash in Court to the same credit), for the taxed costs, charges, and expenses of the petitioner of or in reference to this action [*or*, matter], as such solicitor as aforesaid.

2. That it may be referred to the Taxing Master to tax such costs as between solicitor and client, including therein the costs, charges, and expenses of the petitioner of and in reference to this action [*or*, matter], and also including the costs of the said petitioner of and relating to this application.

3. That so much of the said £5,000 consolidated £3 per cent. annuities in Court to the credit aforesaid, as with the said £300 cash in Court to the same credit [*or as may be*], will raise such costs, charges, and expenses when taxed, may be sold.

4. That out of the money to arise by such sale and the said cash, the said costs, charges, and expenses may be paid to the petitioner L. M.

Or that (*Conclude as in* Form 40).

NOTE.—It is intended to serve this petition on (*Name the persons intended to be served: see* Form 41) (*jj*).

---

whom the cause or matter in which the property was recovered or preserved, and the costs incurred, was heard: *Heinrich* v. *Sutton*, L. R. 6 Ch. 865; *Owen* v. *Henshaw*, 7 Ch. D. 385; *Porter* v. *West*, W. N. (1880), 195. But the Act does not enable one Court to make a charging order upon a fund paid into another Court: *Pierson* v. *Knutsford Estates Co.*, 13 Q. B. D. 666: 32 W. R. 451. As to the nature of the charge and the property chargeable, see Dan. Pr. 1985—1989; *Greer* v. *Young*, 24 Ch. D. 545; *Charlton* v. *Charlton*, W. N. (1883), 141: 32 W. R. 90. An application for a charging order on a fund in respect of the difference between party and party and solicitor and client costs was refused: *Harrison* v. *Cornwall Mineral Railways Co.*, 32 W. R. 748. As to charging funds recovered in a partnership action, see *Jackson* v. *Smith*, 53 L. J. Ch. 972: 51 L. T. 72. As to the time for enforcing a charging order by sale of reversionary interests, see *In re Green, Green* v. *Green*, 26 Ch. D. 16: 32 W. R. 373. A charging order obtained by the solicitor has priority over a garnishee order attaching the proceeds of a *fi. fa.*, issued on behalf of the client: *Dallow* v. *Garrold*, 13 Q. B. D. 543: 33 W. R. 123; S. C., W. N. (1884), 231: 33 W. R. 219.

(*jj*) As to the persons to be served, see Dan. Pr. 1989.

1998.

Summons to charge a sum of money recovered with amount of solicitor's taxed costs (*k*). [Dan. Pr. 1989.]

Formal parts: see Form 43 *or* 1077.

on the part of L. M., of (*Place of business*), gentleman, a solicitor of the Supreme Court.

1. That it may be declared that, if the balance certified to be due on taking the accounts directed by the order made in this action [*or*, matter], and dated the —— day of ——, 188—, shall be in favour of the plaintiff, the applicant, as the solicitor employed by the plaintiff in the prosecution of this action [*or*, matter], is entitled to a charge upon the amount which shall be so certified to be due for the taxed costs, charges, and expenses of the applicant of or in reference to this action [*or*, matter], as such solicitor as aforesaid.

2. That (*Proceed as in paragraph 2 of the prayer of* Form 1997, *to the end of that paragraph, substituting the term* "applicant" *for* "petitioner").

3. That the defendant C. D. may be ordered, within seven days after the Chief Clerk's certificate finding a balance to be due from him to the plaintiff shall have become binding, or within seven days after the date of the certificate of taxation (whichever shall last happen), to pay the said costs, charges, and expenses to the applicant out of the balance which shall be so certified, so far as the same will extend.

4. That the said defendant C. D. may be ordered to pay the residue, if any, of such balance within the time aforesaid to the plaintiff A. B.

1999.

Petition for charging order on property recovered or preserved for amount of solicitor's taxed costs (*l*). [Dan. Pr. 1989.]

Proceed as in Form 1997.

Showeth as follows:

1. *State the retainer of the petitioner to prosecute or defend a proceeding in the Court, the conduct by the petitioner of such prosecution or defence, and the subsequent course of proceedings, showing that the proceedings resulted in the recovery by or preservation for the party by whom the petitioner was retained, through the instrumentality of the petitioner, of the property in question.*

Your petitioner therefore humbly prays, as follows:

1. That it may be declared that your petitioner, as the solicitor employed by the plaintiff [*or as may be*] in the prosecution [*or as may be*] of the said action [*or*, matter], is entitled to a charge upon the share and interest of the said plaintiff [*or as may be*] of and in the said hereditaments and premises at W. and P., and of and in any other property recovered by or preserved for him in the said action [*or*, matter] for the taxed costs, charges, and expenses of your petitioner of or in reference to the said

(*k*) See note (*j*), *supra*. As to applications by summons, see *Hamer* v. *Giles*, *Giles* v. *Hamer*, 11 Ch. D. 942; *Clover* v. *Adams*, 6 Q. B. D. 622. The summons need not be entitled in the matter of the Act or of the solicitor: *Hamer* v. *Giles*, *ubi supra*. For forms of order, see 1 Seton, 644, No. 2; R. S. C. App. K., No. 29.

(*l*) See note (*j*), *supra*. For form of order see 1 Seton 643, No. 1.

action [*or*, matter], as the solicitor of the said plaintiff [*or as may be*].

2. That it may be referred (*Continue as in paragraph* 2 *of the prayer of* Form 1997, *to the end of that paragraph.*)

3. That the amount of such taxed costs, charges, and expenses may be raised by a sale of the share and interest of the said plaintiff [*or as may be*] in the said hereditaments and premises, and other such property as aforesaid, and may be paid to your petitioner L. M.

Or that (*Conclude as in* Form 40).

NOTE.—It is intended to serve this petition on (*State whom, as in* Form 41) (*m*).

2000.

Summons, in an administration action, that documents in the hands of late solicitor be handed over to new solicitor without prejudice to the lien (*n*). [Dan. Pr. 1978.]

Formal parts: see Form 43 *or* 1077.

on the part of the plaintiff [*or as may be*], that A. B., the late solicitor to the applicant, and his agents, Messrs. D. C. & Co., may be ordered to deliver up from time to time to C. D., the present solicitor to the applicant, or to Messrs. F. & Co., his agents, such deeds, papers, and writings in his or their custody or power, as may be necessary for the conduct of this action; and that the question of the necessity for the production of the same in case of difference may be determined by the Judge in Chambers; and that such deeds, documents, and papers as shall be delivered up be retained by the said C. D., and his agents the said Messrs. F. & Co., subject to the lien (if any) of the said A. B. and his agents, the said Messrs. D. C. & Co., and be returned to the said A. B. if and when the Judge in Chambers shall so direct.

SECTION II.—RETAINER AND CHANGE OF SOLICITORS.

(*Dan. Pr.*, pp. 313—316, 346, 1990—1993, ccccxxiii.)

(1.) *Authority to Prosecute or Defend.*

2001.

Authority by an adult to institute and prosecute an action or proceeding. [Dan. Pr. 313—316.]

(*Same as* Form 195.)

(*m*) As to the persons to be served, see Dan. Pr. 1989.

(*n*) See *Belaney* v. *Ffrench*, L. R. 8 Ch. 918; *Re Boughton, Boughton* v. *Boughton*, 23 Ch. D. 169; *Re Capital Fire Insurance Association*, 24 Ch. D. 408; S. C. (varied on appeal), 32 W. R. 260. The form of summons in the text is framed from the order in *Re Boughton, ubi supra*. For other forms of order, see 1 Seton, 637, No. 3: 638, No. 4.

2002.
The like: by indorsement on writ, or originating summons.
[Dan. Pr. 313—316.]

I, the within-named A. B., authorise Mr. C. D., of (*Place of business*), to issue this writ [*or*, this summons], and to prosecute on my behalf the action [*or*, proceeding] to be commenced thereby.

Dated this —— day of ——, 188—.

A. B

2003.
Authority by an adult, to defend an action or proceeding.
[Dan. Pr. 346.]

(*Same as* Form 384.)

2004.
Authority by next friend of plaintiff under disability to use his name as such.
[Dan. Pr. 107, 113, 117, 118.]

(*Same as* Forms 68, 69, 108.)

2005.
Authority by guardian *ad litem* of defendant under disability, to defend.
[Dan. Pr. 173, 175, 182.]

(*Same as* Forms 93, 96, 118.)

2006.
Authority by relator in an action to use his name.
[Dan. Pr. 63–68, 323.]

(*Same as* Form 45.)

(2.) *Change of Solicitors* (*o*).

2007.
Notice of appointment of a solicitor, instead of client acting in person.
[Dan. Pr. 1991.]

(*Short title and reference to the record.*)

Take notice that I am now concerned as solicitor in this action [*or*, matter] for the plaintiff [*or as may be*], instead of his acting in person, and that my address for service is at (*State where*) (*p*).

Dated this —— day of ——, 188—.

E. F., of (*Place of business*).

To the Masters of the Supreme Court; and to Mr. G. H., the solicitor [*or*, agent] for the defendant [*or as may be*].

(*o*) A party suing or defending by a solicitor is at liberty to change his solicitor without an order for that purpose, upon notice of such change being filed in the Central Office or District Registry; but until such notice is filed, and a copy thereof served, and (in causes or matters pending in the Chancery Division) left in the Chambers of the Judge to whom the cause or matter is assigned, the former solicitor is to be considered the solicitor of the party: R. S. C. Ord. VII. 3.

(*p*) As to the address for service, see R. S. C. Ord. IV. 1, 2, 3; XII. 9, 10, 11, 12; XXXV. 18; LXVII. 4.

2008.

Notice of change of solicitor and agent (*q*). [Dan. Pr. 1990, ccccxxiii.]

(*Title and reference to the record.*)

Take notice, that L. M., of (*Place of business*), has been appointed to act as the solicitor of the above-named plaintiff [*or*, defendant—*or*, the above-named defendants E. F. and G. H.] in this action in the place of N. O.—*if so:* deceased;—and that the undersigned P. Q., of (*Place of business*), has been appointed to act as the London agent of the said L. M. in this action [*or*, matter], in the place of R. S. The address for service of the said P. Q. is (*State where*).

Dated this —— day of ——, 188—.

Yours, &c.,

P. Q.

To the above-named defendant [*or*, plaintiff],
and to Messrs. A. & B., his solicitors [*or*, agents].

2009.

Notice of change of solicitor.

(*Title and reference to the record.*)

Take notice, that the undersigned P. Q., of (*Place of business*), has been appointed to act as the solicitor of the above-named plaintiff [*or*, defendant—*or*, the above-named defendants E. F. and G. H.], in the place of N. O.—*if so:* deceased.

The address for service of the said P. Q. is (*State where*).

Dated (*&c.: Conclude as in* Form 2008).

2010.

Notice of change of town agent.

(*Title and reference to the record.*)

Take notice, that L. M., of (*Place of business*), has been appointed by the undersigned P. Q. (*Insert name of plaintiff or defendant's solicitor*), of ——, the solicitor of the above-named plaintiff [*or*, defendant—*or*, the above-named defendants E. F. and G. H.], to act as his London agent in this action, in the place of (*Insert name of original agent*).

The address for service of the said L. M. is (*State where*).

Dated (*&c.: Conclude as in* Form 2008).

2011.

Notice of client's intention to act in person.

(*Title and reference to the record.*)

Take notice that I, P. Q., the above-named plaintiff [*or*, defendant], intend to act in person in this action, in the place of Mr. L. M.; and that my address for service is (*State where*).

Dated (*&c.: Conclude as in* Form 2008).

(*q*) See R. S. C. Ord. VII. 3; and note (*o*), *supra*.

2012.

Motion paper by a co-plaintiff, to appoint a solicitor (and agent) for a separate application (*r*). [Dan. Pr. 1991.]

Formal parts : see Form 36.

To move on behalf of the plaintiff A. B., for leave to appoint Mr. G. H., whose address for service is at (*State where*), as his solicitor

If so : to act by his agent Mr. L. M., whose address for service is at (*State where*),

for the purpose of making an application respecting (*State what*) in this action, separate from his co-plaintiffs therein.

2013.

Petition of course for the like (*r*). [Dan. Pr. 1991.]

Formal parts : see Form 39.

The humble petition of A. B., one of the above-named plaintiffs.

Showeth as follows :

1. Your petitioner and the other co-plaintiffs above-named employ Mr. C. D. as their joint solicitor in this action.

If so : who acts by Mr. E. F. as his agent.

2. Your petitioner is now desirous to make an application respecting (*State what*) in this action, separate and apart from his co-plaintiffs therein, by Mr. G. H., whose address for service is at (*State where*), as his solicitor.

If so : to act by his agent, Mr. L. M., whose address for service is at (*State where*).

Your petitioner therefore humbly prays, that he may be at liberty to appoint the said Mr. G. H. as his solicitor, for the purpose of making the said separate application.

If so : and that the said Mr. G. H. may act by his agent, the said Mr. L. M.

2014.

Præcipe for a *subpœna* to name a solicitor. [Dan. Pr. 1992.]

(*Short title and reference to the record.*)

Seal a *subpœna* on behalf of A. B. [and another ; *or*, others], directed to C. D. : to name a solicitor.

Dated —— day of ——, 188—.

(*Name, &c., of solicitor or party issuing the writ.*)

2015.

The *subpœna* (*s*). [Dan. Pr. 1992.]

Victoria (*&c. : see* Form 196).

To (*Insert name*), greeting :

We command you that, within eight days after the service of this writ on you, exclusive of the day of such service, laying all other matters and excuses aside, you do appear in the Chancery Division of our High Court of Justice, and name a solicitor for you in an action wherein —— are

(*r*) For orders in like case, see *Haynes* v. *Barton*, M. R., 18 Jan. 1868 ; *Gosnell* v. *Gosnell*, M. R., 31 May, 1870 ; Rolls Lib. It is apprehended that in such a case an order will still be required, as there cannot be more than one solicitor on the record for co-plaintiffs : so that the notice under R. S. C. Ord. VII. 3, would seem not to be applicable.

(*s*) For this form, see Cons. Ord. Sched. E., No. 5. No corresponding form is

complainants, and —— are defendants; and observe what our said Court shall direct in this behalf: upon pain of an attachment issuing against your person, and such other process of contempt as our said Court shall award.

Witness (*&c.: Conclude as in* Form 196).

2016. Indorsement of writ. [Dan. Pr. 1992.]

(*Same as* Form 3 *or* 4.)

2017. Motion paper for substituted service of the writ. [Dan. Pr. 1992.]

Formal parts: see Form 36.

To move on behalf of the plaintiff [*or as may be*], that service of a *subpœna* requiring the defendant A. B. [*or as may be*] to name a solicitor, by [*Describe the mode of service proposed: see* Form 368], may be deemed good service thereof on the said defendant [*or as may be*].

An affidavit in support accompanies.

SECTION III.—DELIVERY AND TAXATION OF BILLS OF COSTS UNDER STATUTES RELATING TO SOLICITORS (*t*).

(*Dan. Pr.*, pp. 1993—2036, ccccxxiii.)

2018. Petition of course by solicitor for common order to tax his bill delivered (*u*). Dan. Pr. 1995, 2003.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge* (*uu*)).

In the matter of A. B., one of the solicitors of the Supreme Court (*v*).

To Her Majesty's High Court of Justice.

The humble petition of the above-named A. B., of (*Place of business*).

Showeth as follows:

1. Your petitioner was employed by C. D., of (*residence and addition*), as his solicitor in (*State, shortly, what; as thus:* a certain action in this Court, in which the said C. D. was plaintiff, and E. F. was defendant, and in other matters—*or*, in certain conveyancing business, and other matters—*or as may be*).

given in R. S. C. 1883; but it is apprehended that the practice of suing out a *subpœna* to name a solicitor is still in force, in cases where under the old practice it was applicable: R. S. C. Ord. LXXII. 2.

(*t*) See Solicitors Act, 1843 (6 & 7 Vict. c. 73), ss. 37—43; Attorneys and Solicitors Act, 1870 (33 & 34 Vict. c. 28), ss. 4—15; Legal Practitioners Act, 1875 (38 & 39 Vict. c. 79), s. 2; Solicitors Remuneration Act, 1881 (44 & 45 Vict. c. 44), ss. 2—4; 1 Seton, 604—625; Morgan & Wurtzburg, 426—507.

(*u*) The solicitor cannot apply until after the expiration of a month from the delivery of the bill, and then only in case no application for an order to tax has been made by the client within the month, 6 & 7 Vict. c. 73, ss. 37, 43; Dan. Pr. 1995, 1997; but if authorised to do so by a Judge, he may bring an action to recover his bill, and have the bill referred for taxation, although the month has not expired, on an application under 38 & 39 Vict. c. 79, s. 2: Dan. Pr. 1997; 1 Seton, 608; Morgan & Wurtzburg, 436, 547.

(*uu*) See R. S. C. Ord. V. 9 (*d*).

(*v*) As to the title, see 6 & 7 Vict. c. 73, s. 43.

2. Your petitioner transacted such business; and on the —— day of ——, 188—, caused a bill of his fees, charges, and disbursements for the same, subscribed with his own hand,

Or, enclosed in, and accompanied by, a letter subscribed with his own hand, referring to such bill (*w*),

to be personally delivered [*or*, sent by the post] to the said C. D. [*or as may be* (*x*)].

3. The said C. D. has not paid your petitioner's said bill, nor taken any steps to get the same taxed.

Your petitioner therefore humbly prays, that it may be referred to the Taxing Master to tax and settle the said bill: with the usual directions.

2019.

Order on petition of solicitor to tax his delivered bill (*y*). [Dan. Pr. 2006.]

(*Date and Title.*)

Upon the humble petition of the said A. B. this day preferred unto this Court, it was alleged that (*Recite the allegations in the petition*): It was therefore prayed, and it is accordingly ordered, that it be referred to the Taxing Master to tax and settle the said bill; and that the petitioner, and also the said C. D., do produce before the said Master, upon oath, as he shall direct, all books, papers, and writings in their custody or power respectively, relating to the matters hereby referred, or any of them; and that they be examined touching the same matters, or any of them, as the said Master shall direct.

(1) Direction to tax (*z*).

(2) Cash account (*a*).

And it is ordered that the petitioner do give credit for all sums of money by him received of, or on account of, the said C. D.; and that he be at liberty to charge all sums of money paid by him to or on account of the said C. D.

(3) Costs of reference (*b*).

And it is ordered in case the said C. D. shall attend upon such taxation, that if such bill when taxed be less by a sixth part than the said bill as delivered, the said Master do tax the costs of the said C. D. of this reference; and if the said bill when taxed shall not be less by a sixth part than the said bill so delivered, the said Master do tax the petitioner's costs of such reference.

(*w*) As to what is a sufficient signature, see 6 & 7 Vict. c. 73, s. 37; Dan. Pr. 2000.

(*x*) As to what is a sufficient delivery, see 6 & 7 Vict. c. 73, s. 37; Dan. Pr. 2002.

(*y*) For form of order, see 1 Seton, 605, No. 3. A fee of 10*s.* is payable on the order: by a stamp impressed thereon: Ord. as to S. C. Fees, 1884, Sched. No. 65; Ord. as to Fees, &c., July, 1884, p. 9.

(*z*) For the principles of taxation, see Dan. Pr. 1233—1245. For the method of taxation, see *Ibid.*, 1246—1261. As to proceeding *ex parte* with the taxation, see 6 & 7 Vict. c. 73, s. 37; Dan. Pr. 1995.

(*a*) As to what items of disbursement may be charged in the bill, see Dan. Pr. 2030—2032.

(*b*) As to the costs of the reference, see 6 & 7 Vict. c. 73, s. 37; Dan. Pr. 1995, 1996, 2033. In taxing, the Master will have regard to the original amount of the bill, notwithstanding an offer by the solicitor to take a lesser sum: *In re Paull*, W. N. (1884), 133: 32 W. R. 901; S. C. (affirmed on appeal), 27 Ch. D. 485: 32

And it is ordered that the said Master do certify the amount due from the said C. D. to the petitioner, or from the petitioner to the said C. D., as the case may be: having regard to the costs of such reference, if taxed as aforesaid, and any sum or sums of money which may have been so received or paid as aforesaid. (4) Balance to be certified (*c*).

And it is ordered that the amount so to be certified to be due be within twenty-one days after service of this order, and of the Taxing Master's certificate to be made in pursuance thereof, paid by the party from whom to the party to whom the same shall be certified to be due, unless the Court shall, upon special circumstances to be certified by the said Master, otherwise order, upon application to be made within one week after the date of the said Master's certificate by the party liable to pay such amount. (5) Direction to pay (*d*).

And in case the said C. D. shall pay to the petitioner such sum as may be certified to be due to him without further order: or in case the said Master shall certify that there is nothing due to the petitioner, or that he has been overpaid: It is ordered that the petitioner do deliver to the said C. D., upon oath, all deeds, books, papers, and writings in his custody or power belonging to the said C. D. (6) Delivery up of deeds, &c., on payment (*e*).

And it is ordered that no proceedings be taken by the petitioner against the said C. D. in respect of the said bill pending such reference. (7) No proceedings pending reference (*f*).

And it is ordered that a copy of this order be personally served on the said C. D. one week at the least before any warrant is taken out for the taxation of the said bill. (8) Service of order (*g*)

2020.

Petition of course by party chargeable to tax a delivered bill before action brought (*h*).

Title and address: as in Form 2018.

The humble petition of C. D., of (*residence and addition*).

Showeth as follows:

1. Your petitioner employed the above-named A. B., of (*Place of business*), as his solicitor in (*State, shortly, what: see* Form 2018).

2. The said A. B., on the —— day of ——, 188—, delivered to your petitioner his bill of fees, charges, and disbursements: which, as your petitioner is advised, ought to be taxed. [Dan. Pr. 1994, 2003.]

3. Your petitioner submits to pay what shall appear to be due to the said A. B. on the taxation of his said bill.

Your petitioner therefore humbly prays, that it may be

W. R. 940; *In re Carthew*, W. N. (1884), 141: 32 W. R. 876; S. C. (reversed on appeal), 27 Ch. D. 485: 32 W. R. 940.

(*c*) As to certifying the balance and special circumstances, see 6 & 7 Vict. c. 73, ss. 37, 43; Dan. Pr. 1996, 1999.

(*d*) As to enforcing the order, see 6 & 7 Vict. c. 73, s. 43; Dan. Pr. 2000, 2035.

(*e*) See 6 & 7 Vict. c. 73, s. 37; Dan. Pr. 1996.

(*f*) See *Re Field*, W. N. (1877), 244.

(*g*) As to service generally, and substituted service, see Dan. Pr. 2004.

(*h*) See 6 & 7 Vict. c. 73, s. 37. For forms of order, see 1 Seton, 604, No. 1: 605, No. 2; and see Form 2019. As to the fee payable on the order, see note (*y*) to Form 2019.

referred to the Taxing Master to tax and settle the said bill: with all usual directions. And that no proceedings may be taken against your petitioner in respect of the said bill, pending such reference.

2021.

The like, after action brought (*i*). [Dan. Pr. 1995, 2018.]

Proceed as in Form 2020, *to the end of paragraph* 2; *and continue thus:*

3. The said A. B. has commenced an action against your petitioner in the Queen's Bench Division of this Court [*or as may be*], to recover the amount of the said bill; and your petitioner has appeared thereto (*State, shortly, the subsequent proceedings, if any*).

4. Your petitioner submits to pay what shall appear to be due to the said A. B. upon the taxation of his said bill.

Your petitioner therefore humbly prays, that it may be referred to the Taxing Master to tax and settle the said bill: with all usual directions.

If the action is brought in an inferior Court (*j*), *add:* And that all further proceedings against your petitioner in respect of the said bill may be stayed, pending such reference.

2022.

Petition of course, by party chargeable, for delivery of bill and taxation (*k*). [Dan. Pr. 1996, 2003.]

Proceed as in Form 2020, *to end of paragraph* 1; *and continue thus:*

2. Your petitioner is desirous of obtaining the papers in the possession of the said A. B. belonging to your petitioner; but the said A. B. refuses to deliver up the same until his bill of costs is paid.

3. The said A. B., though applied to, has not delivered his bill of costs against your petitioner.

4. Your petitioner submits to pay what shall appear to be due in respect of the said bill.

Your petitioner therefore humbly prays, that the said A. B. may, within (a fortnight) after service, deliver to your petitioner a bill of fees, charges, and disbursements in all suits, causes, actions, and other matters of business in which he has been employed as the solicitor for your petitioner; and that it may be referred to the Taxing Master to tax and settle the said bill: with all usual directions.

(*i*) See 6 & 7 Vict. c. 73, s. 37. For form of order, see 1 Seton, 616, No. 1.

(*j*) If the action is pending in the High Court, no order can be made on the petition to stay the proceedings: Sup. Ct. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 24, sub-s. 5; the application to stay proceedings in the action must be made to the Court where the action is pending: *Re Field*, W. N. (1877), 244; Morgan & Wurtzburg, 549.

(*k*) See 6 & 7 Vict. c. 73, s. 37. For forms of order, see 1 Seton, 614, No. 1: 624, No. 2.

2023.

Summons for further time to deliver bill of costs, pursuant to order (*l*). [Dan. Pr. 2036.]

Title as in Form 2018 ; *other formal parts : see* Form 43 *or* 1077.

on the part of the above-named A. B., that the time limited for the applicant to deliver his bill of fees, charges, and disbursements, pursuant to the order dated the —— day of ——, 188—, may be enlarged until the —— day of ——, 188—.

2024.

Summons by party chargeable for the taxation of an unpaid bill, after a year from delivery (*m*). [Dan. Pr. 1995, 2004.]

Title as in Form 2018 ; *other formal parts : see* Form 1078.

on the hearing of an application on the part of C. D., of (*residence and addition*) :

1. That : upon the submission of the applicant to pay to the above-named A. B., of (*Place of business*), what shall appear to be due to him on the taxation of his bill hereinafter mentioned : it may be referred to the Taxing Master to tax and settle the bill of fees, charges, and disbursements, amounting to the sum of £——, delivered on or about the —— day of ——, 188—, to the applicant by the said A. B. : with all usual directions.

2. That no proceedings may be commenced against the applicant in respect of the said bill, pending such reference.

2025.

Summons by party chargeable for the taxation of a paid bill (*n*). [Dan. Pr. 1999, 2004.]

Title as in Form 2018 ; *other formal parts : see* Form 1078.

on the hearing of an application on the part of C. D., of (*residence and addition*) :

1. That it may be referred to the Taxing Master to tax and settle the bill of fees, charges, and disbursements, amounting to the sum of £——, delivered by the above-named A. B., of (*Place of business*), to the applicant, and paid by the applicant to the said A. B.

2. That the applicant and the said A. B., respectively, may be directed to produce before the said Master (*Continue as in* Form 2019, *paragraph* 1, *to the end of paragraph* 2, *substituting* the said A. B. *for* the petitioner).

3. That in case it shall appear that the said bill is overpaid, the said Master may be directed to certify the amount overpaid ; and that in such

(*l*) As to the costs of the application, see *Re Dendy*, 21 Beav. 565. As to the power of a Taxing Officer to limit or extend the time for any proceeding before him, see R. S. C. Ord. LXV. 27 (57).

(*m*) See 6 & 7 Vict. c. 73, s. 37. As to applying by summons, see R. S. C. Ord. LV. 2 (15). As to what special circumstances must be shown, see Dan. Pr. 2021—2023 : 1 Seton, 610 ; Morgan & Wurtzburg, 443—447. The application must be made by an originating summons ; and must, if opposed, be supported by an affidavit proving the circumstances relied on. For form of order, see 1 Seton, 618.

(*n*) See 6 & 7 Vict. c. 73, s. 41. As to what are special circumstances, see Dan. Pr. 2023—2025 ; 1 Seton, 618—620 ; Morgan & Wurtzburg, 447—458. The application must be by originating summons ; and must, if opposed, be supported by an affidavit proving the circumstances relied on. For form of order, see 1 Seton, 618.

case the said A. B. may be ordered, within (twenty-one) days after service of the order to be made hereon, and of the said Master's certificate to be made in pursuance thereof, to repay to the applicant what shall be certified to be the amount so overpaid by him.

4. That the said Master may be at liberty to state any circumstance specially, at the request of either party, as he shall think fit.

5. That the costs of this application, and of the said reference, may be reserved until after the said certificate [*or*, dealt with in such manner as the Judge shall think fit to direct].

2026.

Petition of course by a third party, for taxation of a delivered bill (*o*). [Dan. Pr. 1997, 2003.]

Title and address; as in Form 2018.

The humble petition of E. F., of (*residence and addition*).

Showeth as follows:

1. *Show how the liability to pay was incurred; as thus:* The above-named A. B. was employed by C. D. in certain business relating to the payment off [*or*, transfer] of a mortgage created by your petitioner in favour of the said C. D., of certain property belonging to your petitioner.

2. *State delivery of bill; as thus:* The said A. B., on or about the —— day of ——, 188—, delivered unto your petitioner his bill of fees, charges, and disbursements relating to the said business: which your petitioner is liable, as mortgagor, to pay, and is advised ought to be taxed.

3. Your petitioner submits (*Continue as in* Form 2020, *to the end of that Form*).

2027.

Summons by a third party for taxation of unpaid bill, after a year from delivery (*p*). [Dan. Pr. 1995, 1997, 2004, 2020.]

(*Same as* Form 2024.)

2028.

Summons by a third party for the taxation of a paid bill (*q*). [Dan. Pr. 1997, 1999, 2025—2027.]

(*Same as* Form 2025.)

(*o*) See 6 & 7 Vict. c. 73, s. 38; 1 Seton, 622, 623; Morgan & Wurtzburg, 458—466. As to obtaining a copy of the bill, see 6 & 7 Vict. c. 73, s. 40; Dan. Pr. 1999. For form of order, see 1 Seton, 621, No. 1.

(*p*) See 6 & 7 Vict. c. 73, ss. 37, 38. The Court or Judge may take into consideration special circumstances affecting the applicant, though not affecting the party chargeable with the bill: 6 & 7 Vict. c. 73, s. 38. The application must be made by originating summons.

(*q*) See 6 & 7 Vict. c. 73, ss. 38, 41. The Court or Judge may take into consideration special circumstances affecting the applicant, though not affecting the party chargeable with the bill: 6 & 7 Vict. c. 73, s. 38. As to special circumstances, see Dan. Pr. 2023—2025. The application must be made by originating summons.

2029.

Summons by a party interested to tax a delivered bill (*r*). [Dan. Pr. 1998, 1999, 2020.]

Title as in Form 2018 ; *other formal parts : see* Form 1078.

on the hearing of an application on the part of E. F., of (*residence and addition*) :

1. That : on the submission of the applicant to pay what, if anything, shall appear to be due to the above-named A. B., of (*Place of business*), upon the taxation of his bill of fees and disbursements, and for business done, as hereinafter mentioned : it may be referred to the Taxing Master to tax and settle the bill of fees, charges, and disbursements, amounting to the sum of £——, delivered by the said A. B. to C. D., as the trustee [*or*, executor] of the will [*or*, administrator of the personal estate] of G. H., deceased [*or as may be*] ; and which the said C. D. has paid [*or*, claims to be entitled to pay] out of property in which the applicant is interested.

2. That all usual directions may be given, touching such taxation.

3. That the costs of this application, and of the said reference, may be dealt with, in such manner as the Judge shall think fit to direct.

2030.

Notice of motion for discharge of an order of course for taxation obtained irregularly (*s*). [Dan. Pr. 2005, 2006.]

Title : see Form 2018 ; *other formal parts : see* Form 38.

on the part of the above-named A. B. [*or, if the applicant is the party chargeable, or party liable to pay, say :* on the part of C. D., of (*address and addition*)], that the order dated the —— day of ——, 188—, whereby it was ordered (*Set out mandatory part of the order*), may be discharged, on the ground that (*State the objection to the order intended to be insisted upon* (*t*).

(*r*) See 6 & 7 Vict. c. 73, s. 39 ; 1 Seton, 622 ; Morgan & Wurtzburg, 462—464. As to obtaining a copy of the bill, see 6 & 7 Vict. c. 73, s. 40 ; Dan. Pr. 1999. The application must be made by originating summons. For forms of orders, see 1 Seton, 621, No. 2 : 622, No. 3.

(*s*) As to the cases in which it is irregular to obtain an order of course, see Dan. Pr. 2004, 2006 ; 1 Seton, 608 ; Morgan & Wurtzburg, 439—441 ; *In re Inderwick*, 25 Ch. D. 279 : 32 W. R. 541. If a special application for an order is made where the common order could have been obtained, the costs will have to be borne by the applicant : see Dan. Pr. 2005 ; 1 Seton, 608 ; Morgan & Wurtzburg, 438.

(*t*) See R. S. C. Ord. LXX. 3.

CHAPTER XXXVIII.

STATUTORY JURISDICTION (*a*).

(*Dan. Pr.*, pp. 2037—2344, ccccxxiii.—ccccxxviii.)

SECTION I.—GENERALLY.

(*Dan. Pr.*, pp. 2037—2039.)

2031.

Directions of Lord Lyndhurst as to the titles of petitions presented under Acts of Parliament (*b*). [Dan. Pr. 2038.]

In all cases where a petition is presented under the authority of an Act of Parliament to the High Court of Justice, the petition must be entitled in the matter of that Act, and in a substantial matter also (*c*): (1, 2) If it be a railway or other local Act, and under its powers a portion of the estate of any testator or intestate has been taken, the petition must be entitled in the matter of the estate of such testator or intestate; Or (3) If property settled by any deed of settlement, then in the matter of such settlement; Or (4) If land belonging to a rector, vicar, or corporate body, then it must be entitled, *Ex parte* the rector, vicar, or corporate body, as the case may be, and in the matter of the said Act; (5) In the case of legacies paid into Court under the Act 36 Geo. III. c. 52, and sought to be paid out, petitions may be entitled in the way the fund stands in the books of the Chancery Pay Office; (6) Petitions under private Acts of Parliament may be entitled in the Act alone.

Examples (*d*):

1. In the matter of the estate of George Woolley, deceased; and in the matter of the South Devon Railway Act, 1844.
2. In the matter of the settled estates of A. B., deceased; (*and in the particular Act*).
3. In the matter of the settlement of John Jarvis and wife; (*and in the particular Act*).
4. *Ex parte* the Rector of Woolwich; (*and in the particular Act*).
5. In the matter of John Greaves, an infant legatee; and in the matter of the 36 Geo. III. c. 52, entitled "An Act," *&c.*
6. In the matter of an Act for empowering the trustees of the estates of A. B., deceased, to grant leases, and for other purposes.

(*a*) See the Sup. Ct. Jud. Act, 1873 (36 & 37 Vict. c. 66), ss. 34 (2), 76.

(*b*) As to the title of originating summonses, where taken out under the authority of an Act of Parliament, see notice issued by the Practice Masters; and Form 1079, at p. 434.

(*c*) In practice, the substantial matter is usually and more conveniently placed before the title of the Act: as in the examples given.

(*d*) For other examples of titles, see the title of the particular Act in the Index.

Section II.—Statutes relating to Charities (*e*).

(*Dan. Pr.*, pp. 2039—2065, ccccxxiii., ccccxxiv.)

(1.) *Generally.*

2032. Regulations and instructions concerning applications, under "The Charitable Trusts Act, 1853," for an order or certificate of the Board of Charity Commissioners, authorising the institution of any suit or other proceeding before any Court or Judge (*f*). [Dan. Pr. 2039.]

1. Any person applying for an order or certificate of the Board authorising the institution of any suit or other proceeding before any Court or Judge, should transmit to the Board a notice and statement in writing, setting forth whether or not he is a trustee or person administering or claiming to administer, or interested in, the charity, or an inhabitant of the parish or place within which the charity is administered or applied; the amount of the gross annual income of the charity; and all the other material facts and circumstances of the case; and explaining the nature and objects of the proposed suit or other proceeding.

2. The facts and circumstances should be stated in numbered paragraphs, as far as conveniently may be.

3. Where the object of the proposed proceedings is the removal of trustees, their names, descriptions, and residences, and the reasons for their proposed removal should be stated.

4. The names, descriptions, and residences of the trustees proposed to be appointed should also be stated.

5. Where the object of the proposed proceeding is a new scheme, the notice and statement should contain information as to the past administration of the charity, and its results, and the nature and provisions of the proposed scheme.

6. In proposing schemes, care should be taken to deviate as little as possible from the original purposes and intentions of the founder.

7. The Board may require the statement to be explained and altered, in point of form, in such manner and as often as may be thought fit.

8. The Board may also require the statement to be verified by statutory declaration or otherwise.

9. Where the proposed proceeding is to be taken under the special jurisdiction created by the Act, for the establishment or alteration of a scheme, or the appointment or removal of any trustee, notice must be given in the mode which will be directed by the Board.

10. When the Board shall have been satisfied that the proposed proceeding is proper, and that any required notice has been duly given, the requisite order or certificate will be issued to the applicant, or to such other person as may be approved.

(*e*) See 1 Seton, 556—567, 572—577. For forms of orders as to the administration of charities in general, see *Ibid.*, 550—556, 577—579; and under the Charitable Trusts Acts, see *Ibid.*, 568—572. As to the taxation, at the instance of the Charity Commissioners, of costs on behalf of a charity, or its trustees, see 18 & 19 Vict. c. 124, s. 40; Dan. Pr. 2036.

(*f*) For the cases in which the order or certificate of the Charity Commissioners must be obtained before any legal proceeding is taken concerning a charity, see Charitable Trusts Act, 1853 (16 & 17 Vict. c. 137), ss. 17, 18; Dan. Pr. 2039—2041; and as to what is a charitable purpose, see *Ibid.*, 2041, 2042; and see the Charitable Trustees Incorporation Act, 1872 (35 & 36 Vict. c. 24), s. 14.

2033.

Application for the order or certificate of the Charity Commissioners (*g*).

[Dan. Pr. 2039.]

To the Charity Commissioners for England and Wales.

In the matter of the charity called (*Insert the usual name or designation of the charity, and the name of the parish, township, or place, for the benefit whereof the charity was founded, or in which it is administered*), in the county of ——.

The undersigned, being (*The applicant should here state whether or not he is trustee, or person administering or claiming to administer, or interested in, the charity, or an inhabitant of the parish or place within which the charity is administered or applicable*), submits the following notice and statement :—

1. (*State here concisely, and, as far as conveniently may be, in numbered paragraphs, all the material facts and circumstances of the case.*)

Under the foregoing circumstances, the undersigned is desirous of instituting proceedings for effecting the following objects : that is to say :—

1st. (*State here, as far as conveniently may be, in numbered paragraphs, the specific objects for which proceedings are proposed to be taken.*)

The undersigned accordingly requests the Board to issue an order and certificate, authorising him to make an application to Her Majesty's High Court of Justice for effecting the above objects.

I declare that the above statement is in all respects true, according to my information and belief.

Dated this —— day of ——, 188—.

(*The applicant should here sign his name : adding his profession or occupation, and residence.*)

(2.) *Sir Samuel Romilly's Act* (*h*).

(*Dan. Pr.*, pp. 2042—2046, ccccxxiii.)

2034.

Petition under the Act, for leave to sell, grant leases, and exchange charity lands (*i*).

[Dan. Pr. 2044.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge* (*ii*).)

In the matter of Frances Ashton's Charity ; and of the 52nd

(*g*) See Form 2032 ; and note (*f*), *supra*.

(*h*) 52 Geo. III. c. 101 ; see 1 Seton, 563, 564 ; and see Charitable Trusts Act, 1853 (16 & 17 Vict. c. 137), s. 43.

(*i*) *Re Ashton Charities*, M. R., 2 July, 1853 ; S. C. 22 Beav. 288. For other forms of petitions under this Act, see Francis' Law of Charities, 242 ; Barry's Stat. Jur. 316. As to obtaining the sanction of the Charity Commissioners where the petition is not presented by the Attorney-General, see note (*f*) to Form 2032 ; Dan. Pr. 2045. As to who may petition, see *Ibid.*, 2044. As to the persons on whom the petition must be served, see *Ibid.*, 2045. As to the effect of the proceedings, see *Ibid.*, 2045. As to serving the Attorney-General, see *Ibid.*, 2045 ; 1 Seton, 551, 561. As to the proceedings in Chambers under the Act, see Dan. Pr. 2045, 2046. For forms of orders, directing accounts and inquiries as to charities, see 1 Seton, 550—556. As to the further consideration of the petition, see Dan. Pr. 2046.

(*ii*) See R. S. C. Ord. V. 9 (*d*).

Geo. III., chapter 101, intituled "An Act to provide a summary remedy, in cases of abuses of trusts created for charitable purposes."

To Her Majesty's High Court of Justice.

The humble petition of A. B., of (*address and addition*), C. D., of (*address and addition*), and E. F., of (*address and addition*).

Showeth as follows:

1. Your petitioners are three of the trustees of a certain charity founded by the will of F. A., dated, *&c.*, called "The Charity for Poor Clergymen and Poor Clergymen's Widows;" and are also trustees of a charity founded by the same will, called "The Almshouse Charity."

2. *Statement of establishment of a scheme for the management of the charities.*

3. Under, and in accordance with, such scheme, the said charities have been since administered; and both the said charities are comprised in one scheme, although the trustees thereof are different.

4. The real estates belonging to the said charities are situate near the towns of D. and L., in the county of B.; and from various causes, but more especially the very large increase of the population of the said towns, and the increased facility of communication with the metropolis by means of railways, certain parts of the charity estates are most favourably situated for building purposes: and, if sold in small portions, or let on building leases, it would tend greatly to the advantage of the charities, and the increase of the income thereof.

5. Your petitioners lately instructed their surveyors, Messrs. C. & Co., to survey the charity lands, with a view to ascertain whether some parts of the same might not be more advantageously disposed of than by being let for agricultural purposes; and Mr. H. C., one of the members of the said firm, made a report to your petitioners, dated, *&c.*; which was as follows: (*Setting it out*).

6. The said Messrs. C. & Co. have made another report to your petitioners, as follows: (*Setting it out*).

7. The said reports refer to a map, in the possession of your petitioners, of the whole of the charity estates and premises.

Your petitioners therefore humbly pray, that they may be at liberty to enter into contracts, subject to the approbation of this Court, for the sale, letting on building leases, and exchange, of such parts of the said charity estates as this Court may approve of; and that they may be at liberty, from time to time, to submit to the approbation of this Court such contracts as they may enter into; and on the approval thereof by this Court, to execute such deeds as may be necessary for carrying the same into execution; and that the moneys to be received by them may be invested, and held by them upon the same trusts as the lands in respect of which they were received were

held; and that the dividends thereof may be applied accordingly.

Or that (*Conclude as in* Form 40, *and add foot note,* Form 41).

A. B.
C. D.
E. F.

Attestation (*j*). [Dan. Pr. 2044.]

Signed by the petitioners A. B., C. D., and E. F., in the presence of

J. S.,
Solicitor for the petitioners, in the matter of this petition.

2035.

Certificate of counsel, that petition is proper to be sanctioned (*j*). [Dan. Pr. 2044.]

I hereby certify, that this petition is proper for the sanction of Her Majesty's Attorney-General.

(*Signature of counsel.*)
——, 188—.

2036.

Certificate of petitioners' solicitor, as to competency to pay costs (*j*). [Dan. Pr. 2044.]

I hereby certify, that the petitioners are competent to pay all costs which may be incurred in the matter of this petition.

Dated this —— day of ——, 188—.

J. S.

2037.

Allowance of the Attorney-General (*j*). [Dan. Pr. 2044.]

This petition has been submitted to me; and I hereby allow the same, and humbly certify that it is proper to be heard before this Court, if this Court should think fit.

Dated —— day of ——, 188—.

(*Signature of Attorney-General.*)

2038.

Summons to proceed (*k*). [Dan. Pr. 2045.]

(*Same as* Form 1159.)

2039.

Appointment of trustees of a charity (*l*). [Dan. Pr. 2046.]

See the following forms: which can be readily adapted:

Affidavit of eligibility of proposed trustees: Form 1273.

Their consent to act: Form 1274.

Affidavit verifying their signatures thereto: Form 1275.

(*j*) See 52 Geo. III. c. 101, s. 2.

(*k*) The summons must be served on the Attorney-General: 1 Seton, 551, 561.

(*l*) As to appointing and removing trustees of charities, see 1 Seton, 564, 565.

2040.
Formal parts of a scheme (*m*). [Dan. Pr. 2046.]

In the High Court of Justice,
Chancery Division.

(*Title.*)

(Proposed) Scheme for the regulation and management of the above-mentioned charity, and the estates, funds, and property thereof [*or as may be*].

1.
2. } (*Set out the various clauses, in numbered paragraphs.*)
3.

(3.) *The Charitable Trusts Acts*, 1853 *to* 1869 (*n*).

(*Dan. Pr.*, pp. 2047—2060.)

(*n*) *The Charitable Trusts Act*, 1853.—*Summary of Material Provisions of R. S. C.* 1883.

	Order.
Application : *how made.*—Any application under s. 28 to a Judge at Chambers must be by summons	LV. 13.
Appeal from order.—No order made under the Act is subject to appeal where the gross annual income of the charity has not been declared by the Charity Commissioners to exceed £100, unless the Judge certifies that such appeal ought to be permitted	,, 14.
Fees on applications under s. 28.—The fees payable are the same as those payable according to the rules relating to costs in respect of other proceedings commencing by summons, and are also in all other respects regulated by R. S. C. 1883 . .	LXV. 24.
Fees and costs where application heard in Court.—In such case the same fees are payable and the same costs are to be allowed as would have been payable in respect of any other matter so heard	,, 25.

As to the Charitable Trusts Acts, see 16 & 17 Vict. c. 137; 18 & 19 Vict. c. 124; 23 & 24 Vict. c. 136; 25 & 26 Vict. c. 112; 32 & 33 Vict. c. 110; 35 & 36 Vict. c. 24; 1 Seton, 572—577. For a collection of orders under these Acts, see 1 Seton, 568—572. As to vesting real estate in the Official Trustee of Charity Lands, see 16 & 17 Vict. c. 137, s. 48, as amended by 18 & 19 Vict. c. 124, s. 15; Dan. Pr. 2051. For forms of order, see 1 Seton, 554, No. 12; 568, No. 3. As to vesting stock or securities in the Official Trustees of Charitable Funds, see 16 & 17 Vict. c. 137, s. 51; 18 & 19 Vict. c. 124, ss. 12, 18; 23 & 24 Vict. c. 136, s. 12; Dan. Pr. 2052. For forms of orders, see 1 Seton, 569, No. 5; 571, No. 10. As to the powers of the Court to enforce orders of the Commissioners, and as to making their awards rules of Court, see Dan. Pr. 2057; for form of order, see 1 Seton, 572, No. 13. As to appeals from orders of the Commissioners, see 23 & 24 Vict. c. 136, ss. 2, 4, 8, 9; as amended by 32 & 33 Vict. c. 110, ss. 9, 10, 11; Dan. Pr. 2055, 2056; 1 Seton, 575. For form of petition of appeal, see Dan. Forms, 2nd ed. Form 2035; *Re Hackney Charities*, 10 Jur. N. S. 941; 12 W. R. 1129; and for form of appeal petition from order thereon, see Dan. Forms, 2nd ed. Form 2036; *Re Hackney Charities*, 11 Jur. N. S. 126; 13 W. R. 398; but see now R. S. C. Ord. LVIII. 1; and note (*c*), at p. 621. As to appeals from orders made in Chambers, see 16 & 17 Vict. c. 137, s. 28; Dan. Pr. 2052; 1 Seton, 573. As

(*m*) As to schemes, see 1 Seton, 560—562; and see the Endowed Schools Acts, 32 & 33 Vict. c. 56; 33 & 34 Vict. c. 75; Dan. Pr. 2046; note (*t*). For forms of schemes, see Francis' Law of Charities, 233—242. For forms of orders approving schemes, see 1 Seton, 553, 554, Nos. 8—12.

to appeals from orders made by a County Court, see 16 & 17 Vict. c. 137, ss. 39, 40; Dan. Pr. 2053; 1 Seton, 573; for form of petition, see Dan. Forms, 2nd ed. Form 2034. As to power of Charity Commissioners to transfer a matter from the County Court to the Chancery Division, see 16 & 17 Vict. c. 137, s. 37; Dan. Pr. 2054. As to power of the Commissioners to discharge original orders made by them, see 32 & 33 Vict. c. 110, s. 8; Dan. Pr. 2055; 1 Seton, 576.

2041.

Summons for relief under the Acts (*o*). [Dan. Pr. 2049.]

In the High Court of Justice, 188—. B. No. ——.
Chancery Division.
(*Name of Judge.*)

In the matter of (*Describe the charity: according to its designation in the heading of the Charity Commissioners' order or certificate* (*p*): *see* Forms 2032, 2033, *and add:* and of the Charitable Trusts Acts, 1853 *to* 1869).

Add any other special Act conferring jurisdiction in the particular case; as: and of the Trustee Act, 1850.

Let (*&c.: Continue as in* Form 1078, *to* noon), on the hearing of an application on the part of (*Set out the names of the applicants: as in the Commissioners' order or certificate; and add their places of residence and additions*): in the order or certificate of the Board of Charity Commissioners for England and Wales, dated the —— day of ——, 188—, respectively named (*p*): that (*State the precise object of the application: as in the order or certificate; and add, if desired, a clause as to raising and paying the costs of and incident to the application*).

Dated (*&c.: Conclude as in* Form 1078; *including the foot note*).

2042.

Certificate verifying copy of the Commissioners' order or certificate, for Chambers. [Dan. Pr. 2049.]

We [*or*, I] certify, that the above is a true copy of the original order or certificate of the Board of Charity Commissioners for England and Wales.

Dated this —— day of ——, 188—.

(*Add name, &c., of solicitor or party leaving the copy.*)

2043.

Summons to adopt scheme, appoint trustees, vest lands in official trustee of lands, tax and pay costs, and pay residue to account of official trustees of funds.

Title as in Form 2041; *other formal parts: see* Form 43 *or* 1077.

on the hearing of an application on the part of A. B., *&c.:*

1. That the Judge being of opinion that the scheme referred to in the Chief Clerk's certificate dated the —— day of ——, 188— [*or*, that the scheme dated, *&c.*, which has been approved and signed by the Judge and filed in the Central Office], is a fit and proper scheme for the future management and regulation of the above-mentioned charity and the application of the property and income thereof, the same may be ordered to be carried into effect.

2. That A. B. and C. D. in the said certificate [*or*, scheme] named may be appointed trustees of the said charity.

(*o*) An originating summons is necessary.

(*p*) As to this order or certificate, see note (*f*), *supra*.

3. That the lands mentioned in the schedule to the said certificate [*or*, scheme], and all other lands, if any, or any term or estate in land, holden in trust for the said charity, may vest in "The Official Trustee of Charity Lands," in trust for the said charity.

4. That it may be referred to the Taxing Master to tax, as between solicitor and client, the costs of the applicant and of the respondents of these matters. And that the said A. B., *&c.*, may be ordered, out of the sum of £—— cash in the said schedule [*or*, scheme] mentioned, to pay the respondent's costs to Mr. ——, their solicitor, and be at liberty to retain their own costs.

5. That the said A. B., *&c.*, may be ordered, within four days after the date of the Taxing Master's certificate, to pay the residue of the said cash (the amount to be certified by the Taxing Master) to the banking account of "The Official Trustees of Charitable Funds," at the Bank of England, to be held by the said Official Trustees of Charitable Funds in trust for the said charity.

(4.) *Grammar School Act* (*q*).

(*Dan. Pr.*, pp. 2060—2062.)

(*q*) See 3 & 4 Vict. c. 77. Applications under this Act are made by petition under Sir Samuel Romilly's Act (52 Geo. III. c. 101): as to which, see Forms 2034 to 2040.

(5.) *Church Building Acts Amendment Act* (*r*).

(*Dan. Pr.*, pp. 2062, 2063, ccccxxiv.)

(*r*) See 8 & 9 Vict. c. 70; and see 18 & 19 Vict. c. 124, ss. 10, 11. Applications under this Act are made by petition under Sir Samuel Romilly's Act (52 Geo. III. c. 101): as to which see Forms 2034 to 2040. The petition should be intituled in the matter of both Acts. For form of order, see 1 Seton, 552, No. 7; and see *Re Campden Charities*, 24 Ch. D. 213.

(6.) *Burial Acts* (*s*).

(*Dan. Pr.*, pp. 2063—2064.)

2044. Summons that charity lands vested in parochial trustees may be taken for a graveyard (*t*). [Dan. Pr. 2063.]

In the High Court of Justice, 188—. E. No. ——.
Chancery Division.
(*Name of Judge* (*tt*).)
In the matter of the Burial Board for the parish of E., in the county of S.
And in the matter of the Burial Acts, 1852—1871.

(*s*) See 15 & 16 Vict. c. 85; 16 & 17 Vict. c. 134; 17 & 18 Vict. c. 87; 18 & 19 Vict. c. 128; 20 & 21 Vict. c. 81; 22 Vict. c. 1; 23 & 24 Vict. c. 64; 25 & 26 Vict. c. 100; 34 & 35 Vict. c. 33; 36 & 37 Vict. c. 50; 42 & 43 Vict. c. 31; 43 & 44 Vict. c. 41; 44 & 45 Vict. cc. 2, 34; 45 & 46 Vict. c. 21; and see Baker on the Acts; Glen on the Acts.

(*t*) The application can only be made by summons when so directed by the certificate of the Charity Commissioners, and then by an originating summons. For petition in like case, see *Re Egham Burial Board* (filed 12 Aug. 1857); and for order dismissing same without costs, see V.-C. W., 3 Aug. 1857, Reg. Lib. A. 1570; 3 Jur. N. S. 956.

(*tt*) See R. S. C. Ord. V. 9 (*b*).

Other formal parts: see Form 1078.

on the hearing of an application on the part of the Burial Board of E., in the county of S., that the applicants may be authorised and empowered to appropriate and take a portion of the (*Describe, shortly, the land*) to the extent of —— acres, as shown on the map approved by the Secretary of State, for the purposes of a burial ground for the said parish of E.; and that the trustees of the said land may be directed to execute a conveyance (if any be necessary or expedient) for vesting in the applicants such —— acres, or other portion of land so to be appropriated by the applicants for the purposes aforesaid.

(7.) *Charitable Uses Acts* (*u*).

(*Dan. Pr.*, pp. 2064, 2065.)

2045. Affidavit in support of application for enrolment (*v*). [Dan. Pr. 2064, 2065.]

In the matter of an indenture dated the —— day of ——, 188—, relating to the A. Chapel, situate at B., in the county of C. [*or other substantial matter*].

And in the matter of The Charitable Trustees Incorporation Act, 1872.

I, A. B., of (*address and description*), make oath and say as follows:

1. The parchment [*or*, paper] writing now produced and shown to me, and marked A (*w*), and made between, *&c.*, is the deed, assurance, or instrument whereby (*Show that by the instrument sought to be enrolled, hereditaments or some estate or interest therein were conveyed or charged for charitable uses*).

2. *Show that the instrument sought to be enrolled was made really and bonâ fide for full and valuable consideration, actually paid at or before the making or perfecting thereof, or reserved by way of rent-charge or other annual payment, or partly paid at or before the making or perfecting of such instrument, and partly reserved as aforesaid, without fraud or collusion.*

3. *Show that at the time of making the affidavit possession or enjoyment is held under such instrument.*

4. *Show that the omission to enrol the instrument in proper time has arisen from mere ignorance or inadvertence, or from the destruction thereof by time or accident.*

5. *State that no action, suit, or proceeding is pending for setting aside*

(*u*) See 29 & 30 Vict. c. 57; see also 27 & 28 Vict. c. 13, s. 3. By the Charitable Trustees Incorporation Act, 1872 (35 & 36 Vict. c. 24), s. 13, the Clerk of Enrolments is authorised, upon proof of the same circumstances as those required to be proved under 29 & 30 Vict. c. 57, and without any order, to enrol any deed, assurance, or instrument of the description mentioned in the 29 & 30 Vict. c. 57, and such enrolment will be of the same effect as if made under the last-mentioned Act.

(*v*) See 35 & 36 Vict. c. 24, s. 13; and note (*u*), *supra*.

(*w*) Exhibit it. For form of memorandum of exhibit, see Form 28.

the instrument, or for asserting any right founded on the invalidity thereof; and that no judgment has been already obtained, founded on such invalidity.

6. *Show means of knowledge.*

2046.

Summons to enrol a deed relative to a charitable use (*x*). [Dan. Pr. 2064.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*y*).)

In the matter of an indenture dated the —— day of ——, 188—, relating to the A. Chapel, situate at B., in the county of C. [*or other substantial matter*].

And in the matter of the Act 29th and 30th Victoria, chapter 57, intituled "An Act to make further provision for the enrolment of certain deeds, assurances, and other instruments relating to charitable trusts."

Let (*&c.: Proceed as in* Form 1078, *to* noon), on the hearing of an application on the part of (*Names, residences, and additions of the applicants*): trustees of [*or*, governors of—*or*, directors of—*or*, managers of —*or*, being persons entitled to act in the management of—*or*, being persons interested in] the above-mentioned charity: that the deed, assurance, or instrument

Or, that the several deeds, assurances, or instruments specified in the schedule hereto may be enrolled in this Court, within six calendar months from the date of this order: notwithstanding the time limited by law for that purpose has expired.

Dated (*&c.: Conclude as in* Form 1078).

The Schedule.

(*Set out the date, parties, and object of the deed, &c.; as thus:* An indenture dated the —— day of ——, 188—, made between A. B., of the one part, and C. D., E. F., and G. H., of the other part: being a conveyance of certain hereditaments at ——, for and upon the charitable uses and trusts therein mentioned.)

2047.

Affidavit in support of the summons. [Dan. Pr. 2064.]

Title: see Form 2046; *other formal parts: see* Form 6.

1. *Identify the instrument to be enrolled; as thus:* The parchment [*or*, paper] writing now produced and shown to me, and marked A (*z*), is the deed, assurance, or instrument mentioned or referred to in the

(*x*) This application will only be necessary in case the Clerk of Enrolments is not satisfied with the evidence tendered to him of the circumstances required to be proved: see 35 & 36 Vict. c. 24, s. 13; *supra*, note (*w*), at p. 882. For form of order, see *Re Page*, V.-C. M. at Chambers, 5 Aug. 1870, Reg. Lib. B. 2378. The application must be made by an originating summons. The application is made *ex parte*.

(*y*) See R. S. C. Ord. V. 9 (*b*).

(*z*) Exhibit it. For form of memorandum of exhibit, see Form 28.

summons taken out in this matter, on behalf of A. B. and others, on the —— day of ——, 188—, at the Chambers of Mr. Justice ——.

2. *Show that the instrument is one conveying or charging hereditaments or an estate or interest therein for charitable uses.*

3—7. (*Same as paragraphs* 2—6 *of* Form 2045.)

Section III.—The Trustee Relief Acts (*a*).

(*Dan. Pr.* pp. 2065—2085, ccccxxiv.)

2048. Affidavit of trustee, for purpose of paying or transferring a trust fund into Court (*b*). [Dan. Pr. 2069.]

In the High Court of Justice,

Chancery Division.

In the matter of (*Describe the trust; as thus:* the trusts of the sum of £1,000, bequeathed by the will of A. B. in favour of C. D.).

And in the matter of the Act 10th and 11th Victoria, chapter 96, intituled "An Act for better securing trust funds, and for the relief of trustees."

Add, when applicable: and of the Act 12th and 13th Victoria, chapter 74, intituled "An Act for the further relief of trustees."

I, E. F., of (*&c.: Set out the name and address of the trustee* (*c*)) make oath and say as follows:

1. *State where the trustee is to be served with notice* (*d*)*; as thus:* The office of Messrs. G. and H., situate at (*State where*), in the (county) of ——, is the place where I am to be served with any petition, summons, or order, or with notice of any proceeding, relating to the trust fund hereinafter mentioned.

2. Under the provisions of the above-mentioned Act, I propose to pay

(*a*) *Trustee Relief Acts.*—10 & 11 Vict. c. 96; amended by 12 & 13 Vict. c. 74; 35 & 36 Vict. c. 44, s. 26, and Sched. 2, Part II.; 36 & 37 Vict. c. 66, s. 25, sub-s. 6; R. S. C. Ord. LV. 2 (5); the Ch. Funds Amended Orders, 1874, rr. 5—10; S. C. Funds Rules, 1884, r. 41. As to these Acts, the cases thereon, and practice thereunder, see 1 Seton, 493—499; Morgan, 50—61; Lewin, 853—864. As to the jurisdiction of the County Courts see 28 & 29 Vict. c. 99, s. 1; 30 & 31 Vict. c. 142, ss. 24—26.

(*b*) As to the form of the affidavit, see 10 & 11 Vict. c. 96, s. 1; S. C. Funds Rules, 1884, r. 41. The affidavit need not now be printed, as under the above rule the office copy of the schedule to the affidavit alone has to be left with the Paymaster. The schedule must be printed.

(*c*) Where there are more trustees than one, the affidavit should be made by both or all; but where a reasonable explanation is given, the Paymaster-General may be directed to receive the fund on the affidavit of one only: see Dan. Pr. 2070.

(*d*) This was required by Ch. Funds Rules, 1874, r. 34. No similar provision is contained in S. C. Funds Rules, 1884, but it is presumed that the affidavit should contain the particulars required under the old practice.

and transfer into Court the funds mentioned in the schedule hereto, to the credit in the said schedule also mentioned.

3. *Set out a short description of the trust, and of the instrument creating it* (*e*)*; as thus:* The above-named A. B., by her last will dated, *&c.*, bequeathed a legacy of £1,000 to the above-named C. D., therein described as the daughter of E. D. and F. his wife; and directed that the interest and dividends thereof should accumulate until the said C. D. attained the age of twenty-one years; and then to be paid to her with the capital; but in case of the death of the said C. D. under that age, then the testatrix directed that the said legacy should fall into the residue of her estate; and the testatrix thereby bequeathed such residue to L. M. absolutely; and appointed me the deponent, and one N. O., executors of her will.

4. The said testatrix died on, *&c.*, without having altered or revoked her said will; and I and the said N. O. duly proved such will in the Principal Registry of Her Majesty's Court of Probate, on, *&c.*

5. On the —— day of ——, I and the said N. O. set apart, out of the assets of the said A. B., the sum of £1,000 to answer the said contingent legacy to the said C. D.; and invested such sum in the purchase in our joint names of the sum of £ A. Consolidated £3 per cent. annuities. The said N. O. has since died; and the said C. D. is now an infant of the age of —— years.

6. I have received the sum of £ B. for the half-year's interest which accrued due on the said annuities on the —— day of ——; and after deducting and retaining thereout the sum of £ C., for the costs of paying and transferring the said trust fund into Court (*f*), there remains the sum of £ D. cash; and which sums of £ A. Consolidated £3 per cent. annuities, and £ D. cash, I propose to transfer and pay into Court, as in the said schedule hereto stated.

7. *State the names of the persons interested in, or entitled to the fund, to the best of the knowledge and belief of the trustee* (*e*)*: as thus:* To the best of my knowledge and belief, the only persons interested in, or entitled to the said sums of £ A. Consolidated £3 per cent. annuities and £ D. cash, are the said C. D., as the immediate legatee thereof: subject to the contingency aforesaid; and the said L. M.: as the residuary legatee named in the said testatrix's will.

8. *Submission of the trustee to answer inquiries; as thus* (*e*)*:* I submit to answer all such inquiries relating to the application of the said sums of £ A. Consolidated £3 per cent. annuities, and £ D. cash, as this Court, or any Judge thereof at Chambers, may think proper to make or direct.

Sworn (*&c.: as in* Form 9).

[LODGMENT

(*e*) See note (*d*), *supra*.

(*f*) As to the costs of paying in the fund, see Dan. Pr. 2079—2082; 1 Seton, 497—499. For forms of bills of trustees' costs of payment in, see Morgan & Wurtzburg, 810, 811.

LODGMENT SCHEDULE (*g*).

In the High Court of Justice,
Chancery Division.

Filed ——, 188—.

Ledger credit. { In the matter of the trusts of the sum of £1,000 bequeathed by the will of A. B., in favour of C. D. (subject to legacy duty).

Particulars of funds to be lodged.	Name and address of person to make the lodgment.	Amounts.								
		Money.					Securities.			
Consolidated 3 per Cent. Annuities.	E. F., of ——, in the county of ——.						A.			
Cash	The same.	D.								
No part of the legacy duty has been paid [*or*, All the legacy duty has been paid]. It is desired that the above sum of cash, and the dividends to accrue on the above annuities, may be invested in like annuities and accumulated [*or*: It is deemed unnecessary to invest the above sum of cash and the dividends on the above annuities].										

2049.

Direction for lodgment of government securities (*h*). [Dan. Pr. 2071.]

Ledger credit (Fol. ——). Re trusts of the sum of £1,000 bequeathed by the will of A. B., in favour of C. D. (subject to legacy duty).

To the Governor and Company of the Bank of England.

Pay Office, Royal Courts of Justice,
——, 188—.

Authority is hereby given for the transfer by E. F. to the account of the Paymaster-General, for and on behalf of the Supreme Court of Judicature, of the sum of £ A. Consolidated £3 per centum annuities: such transfer being made pursuant to the Trustee Relief Act (10 & 11 Vict. c. 96), and an affidavit filed the —— day of ——, 188—.

(*Signature*) ——.

(*g*) As to this schedule, see S. C. Funds Rules, 1884, r. 41. As to a lodgment schedule in general, see S. C. Funds Rules, rr. 5—10. An office copy of the schedule must be left with the Paymaster, who will thereupon issue the necessary directions to give effect to the lodgment.

(*h*) See S. C. Funds Rules, 1884, rr. 30, 41.

2050.
Bank certificate of transfer (*i*).

To the Assistant Paymaster-General.

Bank of England,
——, 188—.

The above-mentioned securities have been this day transferred to the account of the Paymaster-General.

For the Governor and Company of the Bank of England.

(*Signature*) ——.

2051.
Notice of a payment and transfer having been made (*j*). [Dan. Pr. 2072.]

Title, as in the trustee's affidavit: see Form 2048; *other formal parts: see* Form 37.

Take notice that on the —— day of ——, 188—, E. F., of (*residence and addition*), the executor of the will of A. B., late of (*residence and addition*), deceased [*or as may be*]: under the circumstances set forth in the affidavit of the said E. F. filed in this matter on the —— day of ——, 188—: transferred into Court the sum of £ A. Consolidated £3 per cent. annuities, and paid into Court the sum of £ D. cash, to the credit of (*State what*), in accordance with the provisions of the above-mentioned Act of Parliament.

And also take notice that you are named in the said affidavit as the person [*or*, as one of the persons] entitled to, or interested in, the said sums of annuities and cash [*or as may be*].

2052.
Petition for transfer and payment out of the fund (*k*). [Dan. Pr. 2074.]

Title, as in the trustee's affidavit: see Form 2048; *other formal parts: see* Form 40.

The humble petition of C. D., of (*residence and addition*).

Showeth as follows:

1. *Statement of the trustee's affidavit on which the fund was paid in; as thus:* The trust fund to which this petition relates was paid and transferred into Court, to the credit of the above-mentioned matter, on the affidavit of E. F., filed therein on the —— day of ——, 188—. The said affidavit stated, among other things, that (*Set out, from the affidavit, the description of the trust, the manner in which it was created, the interests of the persons entitled, the difficulty which induced the trustees to pay the fund into Court, and the payment in: see statements in* Form 2048).

2. *Show the present state of investment of the fund, from the Paymaster's*

(*i*) See S. C. Funds Rules, 1884, r. 37.

(*j*) This notice was required by Ch. Funds Rules, 1874, r. 34 (5); Ch. Funds Amended Orders, 1874, r. 5. No similar provision is contained in S. C. Funds Rules, 1884. But see *In re Stening*, W. N. (1884), 142, where Pearson, J., directed notice to be given to the persons interested as if the Rules of 1874 were still in force.

(*k*) An application will be made by petition in cases where the money or securities in Court exceed 1000*l.*, or 1000*l.* nominal value: R. S. C. Ord. LV. 2 (5). A petition under the Acts may be adjourned into Chambers for further hearing: see *Re Moate's Trusts*, 22 Ch. D. 635: 31 W. R. 497.

certificate; as thus: The said sums of £ A. consolidated £3 per cent. annuities, and £ D. cash, and the dividends and accumulation of dividends thereon, are now represented by the sums of £ B. like annuities, and £ C. cash, remaining on the credit of the said matter.

3. *State how the petitioner acquired title; as thus:* Your petitioner is the person referred to in the will of the said testatrix, and in the said affidavit of the said E. F., as C. D., daughter of E. D., and F. his wife. On the —— day of ——, 188—, your petitioner attained her age of twenty-one years; and thereupon became absolutely entitled to the said trust fund.

4. *Name a place for service* (*l*); *as thus:* The office of your petitioner's solicitor, Mr. X. Y., situate at (*State where*), in the (county) of ——, is the place where your petitioner may be served with any petition or summons, or notice of any proceeding or order of this Court, relating to the said trust fund.

5. *If the fund is chargeable with legacy or succession duty, state whether such duty or any part thereof has or has not been paid* (*m*); *as thus:* The said trust fund is liable to legacy duty. No part of such legacy duty has been paid.

Your petitioner therefore humbly prays, as follows:

1. That the costs of your petitioner (*n*) of this application may be taxed by the Taxing Master: as between solicitor and client.

2. That so much of the said £ B. consolidated £3 per cent. annuities as with the said £ C. cash, and any dividends to accrue on the said annuities, will be sufficient to raise the said costs when taxed, and also the assessed amount of the legacy duty payable in respect of the said trust fund, may be sold.

3. That out of the money to arise by such sale, the said costs may be paid; and the amount of the said legacy duty may, upon the requisition of the Commissioners of Inland Revenue, be transferred to the account of the Receiver-General of Inland Revenue, at the Bank.

4. That the residue of the said consolidated £3 per cent. annuities may be transferred to your petitioner C. D., spinster (*o*).

Or that (*&c.: Conclude as in* Form 40; *and add foot note,* Form 41).

(*l*) See Ch. Funds Amended Orders, 1874, r. 9.

(*m*) *Ibid.*, r. 11.

(*n*) As to the costs of the trustees and the other persons served with the application, see Dan. Pr. 2080, 2083, 2084; 1 Seton, 498, 499; R. S. C. Ord. LXV. 27 (19); *In re Sutton*, 21 Ch. D. 855: 30 W. R. 657. For forms of bills of costs of petitioners and respondents on application for payment out, see Morgan & Wurtzburg, 821—828.

(*o*) The provisions for dealing with the fund will be contained in a payment schedule to the order: see S. C. Funds Rules, r. 6; note (*b*), at p. 884; and note (*k*), at p. 766.

2053. Summons for transfer and payment out, of fund (*p*). [Dan. Pr. 2074.]

(*Title as in the trustee's affidavit: see* Form 2048; *adding name of Judge and reference to the record.*)

Let (*&c.: Continue as in* Form 1078, *to* noon), on the hearing of an application on the part of C. D., of (*residence and addition*)—*If so:* in the affidavit of E. F. (*trustee*), filed in this matter the —— day of ——, 188—, named:

1. That (*Continue as in prayer of* Form 2052, *to* spinster; *but substitute* applicant *for* petitioner; *and describe the fund and the credit to which it stands, in full, according to the Paymaster's certificate*).

The office of the applicant's solicitor, Mr. X. Y., situate at (*State where*), in the (county) of ——, is the place where the applicant may be served with any petition or summons, or notice of any proceeding or order of this Court, relating to the said trust fund (*q*).

Dated (*&c.: Conclude as in* Form 1077, *or* 1078).

Section IV.—The Trustee Acts, 1850 and 1852 (*a*).

(*Dan. Pr.*, pp. 2085—2130, ccccxxiv.)

(*p*) As to the jurisdiction on summons, see R. S. C. Ord. LV. 2 (5). The first application after the payment in must be made by originating summons; subsequent applications may be made by ordinary summons.

(*q*) See Ch. Funds Amended Orders, 1874, r. 9.

(*a*) *The Trustee Acts.*—13 & 14 Vict. c. 60; 15 & 16 Vict. c. 55. As to these Acts, see 1 Seton, 503—549; Morgan, 61—94; Fisher on Mortgages, 984—995; Lewin on Trusts, 865—898; Shelford R. P. Acts, 647—685; Williams on Petitions, 243—264. An application under these Acts is made by petition: 13 & 14 Vict. c. 60, s. 40, except where a judgment or order has been made for the sale, conveyance, or transfer of any stock or of any hereditaments, corporeal or incorporeal, of any tenure or description, whatever may be the estate or interest therein, in which case an application for a vesting order, or for an order appointing a person to convey, is made by summons at Chambers: R. S. C. Ord. LV. 2 (8). As to who may apply, see 13 & 14 Vict. c. 60, s. 37; Dan. Pr. 2119; 1 Seton, 524, 525. As to the persons upon whom the application must be served, see Dan. Pr. 2120, 2121; 1 Seton, 525, 526. For forms of orders appointing new trustees and vesting lands in them, see 1 Seton, 538—541, Nos. 1—3; — appointing new trustees and vesting stock or choses in action in them, *Ibid.*, 538—544, Nos. 1—9; — vesting lands, or appointing persons to convey lands, without appointing trustees, *Ibid.*, 503—508, Nos. 1—17; — vesting stock or choses in action where no trustee is appointed, *Ibid.*, 508—514, Nos. 18—32; — declaring persons under disability or persons not *in esse* to be trustees and vesting their interests in, or appointing a person to convey their interests to, a purchaser or mortgagee, *Ibid.*, 527—536, Nos. 1—20; and for forms of orders directing costs to be raised out of a fund, or out of rents, or by mortgage, *Ibid.*, 514, No. 33: 544, No. 10. As to costs, see Dan. Pr. 2127—2128; 1 Seton, 526; Morgan & Wurtzburg, 324—328. As to the stamp duties on orders made under these Acts, see the Stamp Act, 1870 (33 & 34 Vict. c. 97): amended by the 34 & 35 Vict. c. 4; Dan. Pr. 2129; 1 Seton, 502, 515. The Commissioners of Inland Revenue have intimated to the Chancery Registrars that in their opinion the following descriptions of orders made under the Trustee Act, 1850, are chargeable under the Stamp Act, 1870, with the following duties:—(1.) Order appointing new trustees: one stamp of 10*s.* (2.) Order appointing new trustees, and vesting in them the right to transfer stock: one stamp of 10*s.* (3.) Order appointing new

2054.

Petition for vesting order, where trustee of lands is an infant, or out of the jurisdiction, or refuses or neglects to convey (*b*). [Dan. Pr. 2094—2096.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*bb*).)

In the matter of the trusts of an indenture, dated, *&c.*, and made between, *&c.*

And in the matter of The Trustee Act, 1850 (*Add, where applicable:* and of the Act, 15th & 16th Vict. c. 55, intituled "An Act to extend the provisions of the Trustee Act, 1850.")

To Her Majesty's High Court of Justice.

The humble petition of A. B., of, *&c.*, and C. D., of, *&c.*

Showeth as follows:

1. *State the instrument creating the trust, and show that the hereditaments subject to the trust are now vested in* (1) *an infant trustee or mortgagee* (*c*); *or* (2) *a trustee who is out of the jurisdiction of the Court* (*d*); *or* (3) *a trustee who, for twenty-eight days after demand made upon him by a person entitled to require a conveyance of the lands, requiring him to convey the same, has wilfully refused or neglected to convey the same* (*e*).

Your petitioners therefore humbly pray, that the said messuage or tenement and hereditaments, subject to the trusts of the said indenture, may vest in the said A. B. and C. D. for the estate of the said X. Y. (*trustee*) therein.

Or that (*Conclude as in* Form 40; *and add foot note,* Form 41).

2055.

The like, where trustee cannot be found, or it is not known whether he be living or dead, or he has died intestate and without an heir, or he has died and it is not known who is his heir or devisee (*f*). [Dan. Pr. 2094—2096, 2097, 2098.]

Proceed as in Form 2054, *down to* as follows; *and continue thus:*

1. *State the instrument creating the trust, and show* (1) *that the trustee cannot be found* (*g*); *or* (2) *that it is not known whether the trustee*

trustees, and vesting land in them: two stamps of 10*s.* each. (4.) Order appointing new trustees, and vesting in them the right to sue for choses in action: two stamps of 10*s.* each. When the choses in action are in the nature of a mortgage, bond, debenture, covenant, or foreign security, or of any money or stock secured by any such instrument, or by any warrant of attorney to enter up judgment, or by any judgment, and the total amount thereby secured is under 2000*l.*, an *ad valorem* stamp at the rate of 6*d.* per 100*l.* is to be substituted for the second stamp of 10*s.* (*Vide* Stamp Act, 1870, Schedule, Title, *Mortgage*, paragraph 3.) In no case when new trustees are appointed, and a vesting order made, are more than two 10*s.* stamps required. No stamp is required in respect of any order merely vesting the right to call for a transfer of, and to transfer, any stock: Registrar's Notice, March, 1871; W. N. (1871), Part II. 112.

(*b*) See 13 & 14 Vict. c. 60, ss. 7, 9, 10; 15 & 16 Vict. c. 55, s. 2. For forms of order, see 1 Seton, 503, No. 1: 504, No. 4: 508, No. 17. For form of order where a joint trustee is out of the jurisdiction, see *Ibid.*, 504, No. 5.

(*bb*) See R. S. C. Ord. V., 9 (*d*).

(*c*) See 13 & 14 Vict. c. 60, s. 7. (*d*) *Ibid.*, ss. 9, 10.

(*e*) See 15 & 16 Vict. c. 55, s. 2.

(*f*) See 13 & 14 Vict. c. 60. ss. 9, 10, 14, 15. For forms of order, see 1 Seton, 504, No. 4: 505, No. 10: 506, No. 11. For form of order where a joint trustee cannot be found, see *Ibid.*, 504, No. 5.

(*g*) See 13 & 14 Vict. c. 60, ss. 9, 10.

be living or dead (h); or (3) *that the trustee has died intestate and without an heir, or that he has died, and it is not known who is his heir or devisee (j).*

Your petitioners therefore humbly pray, that the said messuage or tenement and hereditaments, subject to the trusts of the said indenture, may vest in the said A. B. and C. D.

If the trustee cannot be found, or it is not known whether he be living or dead, say: for the estate of the said X. Y. (*trustee*) therein, or (if he be dead) for the estate therein, which would now be vested in the said X. Y. (*trustee*), if now living.

Or that (*Conclude as in* Form 40; *and add foot note,* Form 41).

2056.

The like, where it is uncertain which of several trustees was the survivor (*k*). [Dan. Pr. 2097.]

Proceed as in Form 2054, *down to* as follows; *and continue thus:*

1. *State the instrument creating the trust, and show that the hereditaments became vested in two or more trustees, and that it is uncertain which of such trustees was the survivor.*

Your petitioners therefore humbly pray, that the said messuage or tenement and hereditaments, subject to the trusts of the said indenture, may vest in the said A. B. and C. D. for the estate therein which would now be vested in the survivor of them, the said W. Y. and T. Z. (*deceased trustees*), if such survivor were now living.

Or that (*Conclude as in* Form 40; *and add foot note,* Form 41).

2057.

The like, where lands are subject to contingent right in unborn person or class of persons (*l*). [Dan. Pr. 2098.]

Proceed as in Form 2054, *down to* as follows; *and continue thus:*

1. *State the instrument creating the trust, and show that the lands subject to the trust are subject to a contingent right in an unborn person or class of unborn persons, who, upon coming into existence, would in respect thereof become seised or possessed of such lands upon a trust.*

Your petitioners therefore humbly pray, that the said messuage or tenement and hereditaments, subject to the trusts of the said indenture, may vest in the said A. B. and C. D. for the estate or estates therein of which any unborn child or children [*or,* issue] of the said X. Y. would, upon coming into existence, be seised upon trust as aforesaid.

Or that (*Conclude as in* Form 40; *and add foot note,* Form 41).

(*h*) See 13 & 14 Vict. c. 60, s. 14.
(*j*) *Ibid.*, s. 15.
(*k*) *Ibid.*, s. 13. For form of order, see 1 Seton, 505, No. 9.
(*l*) See 13 & 14 Vict. c. 60, s. 16. For form of order, see 1 Seton, 506, No. 13.

2058.

Petition for appointment of a person to convey (*m*). [Dan. Pr. 2100, 2101.]

Proceed as in Form 2054, *down to* as follows ; *and continue thus :*

1. *Same as paragraph* 1 *of* Form 2054, *or* 2055, *or* 2056, *or* 2057.

Your petitioners therefore humbly pray, that the said A. B. may be appointed to convey the said messuage or tenement and hereditaments, subject to the trusts of the said indenture, for the estate of the said X. Y. (*trustee*) therein [*or as may be: see prayer of* Form 2054, *or* 2055, *or* 2056, *or* 2057]. And that the said A. B. may be ordered to convey the same accordingly.

Or that (*Continue as in* Form 40 ; *and add foot note,* Form 41).

2059.

Petition for order releasing lands from contingent right in infant trustee or mortgagee, or in trustee out of jurisdiction, or who cannot be found, or in unborn person or class of persons (*n*). [Dan. Pr. 2094, 2096, 2097, 2098.]

Proceed as in Form 2054, *down to* as follows ; *and continue thus :*

1. *State the circumstances showing that there is a contingent right in lands* (1) *in an infant trustee or mortgagee* (*o*) *: or* (2) *in a trustee who is out of the jurisdiction of the Court, or cannot be found* (*p*) *; or* (3) *in an unborn person or class of unborn persons, who, upon coming into existence, would in respect thereof become seised or possessed of the lands upon trust* (*q*).

Your petitioners therefore humbly pray, that the said messuage or tenement and hereditaments, subject to the trusts of the said indenture, may be wholly released from the said contingent right therein, to which the said X. Y, (*trustee*) is entitled as aforesaid [*or, if the trustee cannot be found, say :* to which the said X. Y., if now living, is entitled as aforesaid, or (if the said X. Y. be dead) to which he would now be entitled if now living.—*Or, if the right is in an unborn person or class of persons, say :* to which the same are subject in any unborn child or children [*or,* issue] of the said X. Y. as aforesaid].

Or that (*Continue as in* Form 40 ; *and add foot note,* Form 41).

2060.

Petition for order disposing of contingent right in infant trustee or mortgagee, or in trustee out of jurisdiction, or who cannot be found (*r*). [Dan. Pr. 2094—2097.]

Proceed as in Form 2054, *down to* as follows ; *and continue thus :*

1. *State the circumstances showing that there is a contingent right in lands* (1) *in an infant trustee or mortgagee* (*s*) *; or* (2) *in a trustee who is out of the jurisdiction of the Court or cannot be found* (*t*).

(*m*) See 13 & 14 Vict. c. 60, s. 20. For form of order, see 1 Seton, 507, No. 15. As to the effect of a conveyance under the order, see 13 & 14 Vict. c. 60, s. 20.

(*n*) See 13 & 14 Vict. c. 60, ss. 8, 11, 12, 16. For forms of orders in like case, see 1 Seton, 504, No. 2 : 505, No. 6 : 506, No. 12.

(*o*) See 13 & 14 Vict. c. 60, s. 8.

(*p*) *Ibid.*, ss. 11, 12.

(*q*) *Ibid.*, s. 16.

(*r*) *Ibid.*, ss. 8, 11, 12. For forms of orders, see 1 Seton, 504, No. 3 : 505, No. 7. For form of order where a joint trustee entitled to a contingent right is out of the jurisdiction or cannot be found, see *Ibid.*, 505, No. 8.

(*s*) See 13 & 14 Vict. c. 60, s. 8.

(*t*) *Ibid.*, ss. 11, 12.

Your petitioners therefore humbly pray, that the said contingent right to which the said X. Y. (*trustee*) is entitled as aforesaid [*or, if the trustee cannot be found, say:* to which the said X. Y., if now living, is entitled as aforesaid, or (if he be dead) to which he would now be entitled if now living], may be disposed of to, and vested in, the said A. B. and C. D.

Or that (*Continue as in* Form 40; *and add foot note*, Form 41).

2061.

Petition for appointment of a person to release or dispose of contingent right (*u*). [Dan. Pr. 2100, 2101.]

Proceed as in Form 2054, *down to* as follows: *and continue thus:*

1. *Same as paragraph* 1 *of* Form 2059 *or* 2060.

Your petitioners therefore humbly pray, that the said L. M. may be appointed to release [*or*, to dispose of to the said A. B. and C. D.] the said contingent right in the said messuage or tenement and hereditaments, subject to the trusts of the said indenture, to which the said X. Y. (*trustee*) is entitled as aforesaid [*or as may be: see the prayer of* Form 2059 *or* 2060]. And that the said L. M. may be ordered to release [*or*, to dispose of] the said contingent right accordingly.

Or that (*Continue as in* Form 40; *and add foot note*, Form 41).

2062.

Petition for order vesting right to transfer stock and to receive dividends (*v*). [Dan. Pr. 2101—2107.]

Proceed as in Form 2054, *down to* as follows; *and continue thus:*

1. *State the instrument creating a trust of stock, and show that the trustee or one of the trustees* (1) *is out of the jurisdiction of the Court, or cannot be found, or that it is uncertain whether he be living or dead* (*w*); *or* (2) *is an infant* (*x*); *or* (3) *neglects or refuses to transfer the stock, or to receive the dividends or income thereof, for twenty-eight days next after a request in writing for that purpose by a person absolutely entitled thereto, or next after an order of the Court for that purpose shall have been served upon him* (*y*); *or* (4) *show that stock is standing in the sole name of a deceased person, and that his or her personal representative is out of the jurisdiction of the Court, or cannot be found, or that it is uncertain whether such personal representative be living or dead, or that such personal representative neglects or refuses to transfer the stock or to receive the dividends or income thereof for twenty-eight days next after a request in writing for that purpose by a person absolutely entitled thereto, or next*

(*u*) See 13 & 14 Vict. c. 60, s. 20. For form of order, see 1 Seton, 507, No. 15. As to the effect of a release or disposition under the order, see 13 & 14 Vict. c. 60, s. 20.

(*v*) See 13 & 14 Vict. c. 60, ss. 22—25; 15 & 16 Vict. c. 55, ss. 3—5. For forms of orders, see 1 Seton, 508, No. 19: 509, Nos. 20, 21: 510, No. 24: 511, Nos. 25, 26: 512, Nos. 28, 29: 513, Nos. 30, 31. As to the effect of the order, see 13 & 14 Vict. c. 60, s. 26; 15 & 16 Vict. c. 55, s. 6; Dan. Pr. 2107, 2125.

(*w*) See 13 & 14 Vict. c. 60, s. 22.

(*x*) See 15 & 16 Vict. c. 55, s. 3.

(*y*) See 13 & 14 Vict. c. 60, ss. 23, 24; 15 & 16 Vict. c. 55, s. 4.

after an order of the Court for that purpose shall have been served upon him (*z*).

Your petitioners therefore humbly pray, that the right to transfer the said £1,000 consolidated £3 per cent. annuities [*or as may be*], and to receive any dividends now due, and to accrue due thereon, may vest in the said A. B. and C. D.

Or that (*Continue as in* Form 40; *and add foot note,* Form 41).

2063.

Petition for order directing officer of bank or company to transfer stock (*a*).
[Dan. Pr. 2100, 2101.]

Proceed as in Form 2054, *down to* as follows; *and continue thus:*

1. *Same as paragraph* 1 *of* Form 2062.

Your petitioner therefore humbly prays, that the Secretary, Deputy-Secretary, or Accountant-General for the time being of the Governor and Company of the Bank of England [*or, describe the proper officer of the company or society, in the books whereof the stock is transferable*] may be ordered to transfer the said £1,000 consolidated £3 per cent. annuities [*or as may be*] into the names of the said A. B. and C. D.: to be held by them upon the trusts of the said indenture. And that the right to receive any dividends now due, or to accrue due on the said annuities [*or as may be*], until the transfer thereof, may vest in the said A. B. and C. D.

Or that (*Continue as in* Form 40; *and add foot note,* Form 41).

2064.

Petition for order vesting right to sue for or recover chose in action (*b*).
[Dan. Pr. 2101—2105.]

Proceed as in Form 2054, *down to* as follows; *and continue thus:*

1. *State the instrument creating a trust of a chose in action, and show that the trustee or one of the trustees* (1) *is out of the jurisdiction of the Court, or cannot be found, or that it is uncertain whether he be living or dead* (*c*); *or* (2) *neglects or refuses to sue for or recover such chose in action, or any interest in respect thereof, for twenty-eight days next after a request in writing for that purpose by a person absolutely entitled thereto, or next after an order of the Court for that purpose, shall have been served upon him* (*d*).

Your petitioners therefore humbly pray, that the right to sue for or recover the said sum of £——, and any interest in respect thereof,

Or, the right to sue for or recover any interest in respect of the said sum of £——,

(*z*) See 13 & 14 Vict. c. 60, s. 25; 15 & 16 Vict. c. 55, s. 5.

(*a*) See 13 & 14 Vict. c. 60, s. 20. For form of order, see 1 Seton, 508, No. 18.

(*b*) See 13 & 14 Vict. c. 60, ss. 22, 24; 15 & 16 Vict. c. 55, s. 4. For forms of order, see 1 Seton, 510, Nos. 22, 23: 511, No. 26: 514, No. 32. As to the effect of the order, see 13 & 14 Vict. c. 60, s. 27; Dan. Pr. 2108.

(*c*) See 13 & 14 Vict. c. 60, s. 22.

(*d*) *Ibid.*, ss. 23, 24; 15 & 16 Vict. c. 55, s. 4.

may vest in the said A. B. and C. D. as trustees of the said indenture.

Or that (*Conclude as in* Form 40; *and add foot note,* Form 41).

2065.

Petition for appointment of new trustee, and for vesting order consequent thereon (*e*). [Dan. Pr. 2112—2122.]

Proceed as in Form 2054, *down to* as follows; *and continue thus:*

1. *State the creation of the trust and show what property is subject to the trust; that it is expedient to appoint a new trustee or new trustees (as, that there is no existing trustee (f); or that a trustee has been convicted of felony (g); or is an infant (h): or has become bankrupt (i); or is permanently resident abroad (j)); and that it is inexpedient, difficult, or impracticable to appoint a new trustee or trustees without the assistance of the Court.*

Your petitioners therefore humbly pray as follows:

1. That the said C. D. may be appointed trustee of the said indenture dated, *&c.*, in substitution for the said X. Y. (*trustee retiring, deceased, or under disability*), and in addition to the said A. B. (*continuing trustee*).

2. That the said messuage or tenement and hereditaments, subject to the trusts of the said indenture, may vest in the said C. D., jointly with the said A. B., as such trustees as aforesaid, for the estate therein now vested in the said A. B. and X. Y. [*or as may be: see* Forms 2054 *to* 2057.]

3. That the right to call for a transfer of, and to transfer into their own names, the said £1,000 consolidated £3 per cent. annuities [*or as may be*], and to receive any dividends now due and to accrue due thereon, may vest in the said A. B. and C. D. as such trustees as aforesaid.

4. That the right to sue for or recover the said sum of £1,000 [*or*, any chose in action subject to the trusts of the said inden-

(*e*) Sec 13 & 14 Vict. c. 60, ss. 32—36; 15 & 16 Vict. c. 55, ss. 8, 9. As to the appointment of new trustees, see also the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict. c. 41, ss. 31—34); Dan. Pr. 2111, note (*d*). Where the appointment can be effected under the provisions of this Act, an application should not be made to the Court to exercise its jurisdiction under the Trustee Act, 1850: *Re Gibbon*, W. N. (1882), 12: 30 W. R. 287. For forms of orders, see 1 Seton, 538—544, Nos. 1—9. As to the effect of an order appointing new trustees, see 13 & 14 Vict. c. 60, s. 33; and see 22 & 23 Vict. c. 36, ss. 14, 15. As to the effect of an order vesting lands, see 13 & 14 Vict. c. 60, s. 34. As to the effect of an order vesting the right to call for a transfer stock, see 13 & 14 Vict. c. 60, s. 26; 15 & 16 Vict. c. 55, s. 6. As to the effect of an order vesting the right to sue for or recover a chose in action, see 13 & 14 Vict. c. 60, s. 27. As to appointing continuing trustees in the place of continuing and retiring trustees, see Dan. Pr. 2118; *In re Martyn*, 26 Ch. D. 745: 32 W. R. 734; *In re Lamb's Trusts*, 28 Ch. D. 77: 33 W. R. 163.

(*f*) See 15 & 16 Vict. c. 55, s. 9.

(*g*) *Ibid.*, s. 8.

(*h*) See *Re Gartside*, 1 W. R. 196; Dan. Pr. 2116.

(*i*) See *Re Barker*, 1 Ch. D. 43.

(*j*) See *Re Bignold*, L. R. 7 Ch. 223.

ture—*or as may be*], or any interest in respect thereof, may vest in the said A. B. and C. D. as such trustees as aforesaid.

Or that (*Continue as in* Form 40; *and add foot note*, Form 41).

2066.

Evidence in support of petition to appoint new trustees. [Dan. Pr. 2132.]

See the following forms, which can be readily adapted:

Affidavit of eligibility of proposed new trustee: Form 1273.

His consent to act: Form 1274.

Affidavit verifying signature thereto: Form 1275.

2067.

Summons for vesting order, where judgment or order for sale has been made (*k*). [Dan. Pr. 2122.]

(*See* Form 1340.)

2068.

Summons for appointment of a person to convey, in like case (*l*). [Dan. Pr. 2122.]

(*See* Form 1339.)

Summons for a vesting order, where a judgment or order for conveyance has been made (*m*). [Dan. Pr. 2110, 2122.]

Formal parts: see Form 43 *or* 1077.

on the part of (*State whom*), that it may be declared that the defendant X. Y. [*or as may be*], who is an infant [*or as may be: state the disability or circumstance which renders the order necessary*], is a trustee within the meaning of the Trustee Act, 1850, of the lands and hereditaments by the judgment [*or*, order] made in this cause and dated the —— day of ——, 188—, directed to be conveyed [*or as may be*]. And that the said lands and hereditaments may vest in the applicant for the estate therein of the said X. Y. [*or as may be: see* Forms 2054 *to* 2057].

(*k*) See 13 & 14 Vict. c. 60, s. 29; 15 & 16 Vict. c. 55, s. 1. The application is made by summons at Chambers: R. S. C. Ord. LV. 2 (8). For forms of orders, see 1 Seton, 534, No. 16: 535, Nos. 17, 18. As to the effect of the order, see 15 & 16 Vict. c. 55, s. 1.

(*l*) *Ibid.*; and see 13 & 14 Vict. c. 60, s. 20. For forms of order, see 1 Seton, 534, No. 16; and see *Ibid.*, 527, No. 1; 528, No. 3: 532, No. 10: 533, Nos. 13, 14: 536, No. 19. As to the effect of a conveyance under the order, see 13 & 14 Vict. c. 60, s. 20; 15 & 16 Vict. c. 55, s. 1.

(*m*) See 13 & 14 Vict. c. 60, s. 30. For form of order in like case, see 1 Seton, 536, No. 20.

2070.

Summons for appointment of person to convey, in like case (*n*). [Dan. Pr. 2101, 2122.]

Proceed as in Form 2069, *down to* "directed to be conveyed"; *and continue thus:* And that C. D., of, *&c.*, may be appointed to convey the said hereditaments to the applicant, or as he may direct, for the estate therein of the said X. Y. [*or as may be: see* Forms 2054 *to* 2057]. And that the said C. D. may be ordered to convey the same accordingly.

2071.

Consent of lord or lady of a manor to an order vesting a copyhold estate (*o*). [Dan. Pr. 2109.]

(*Short title and reference to the record.*)

I, A. B., of (*residence and addition*), the lord [*or*, lady] of the manor of C., in the county of D., consent to an order being made by the High Court of Justice, to vest in E. F. the copyhold or customary lands holden of the said manor, whereof G. H. is the tenant on the Court Rolls thereof: for all the estate of the said G. H. therein [*or as may be*].

A. B.

2072.

Affidavit verifying the signature thereto. [Dan. Pr. 2109.]

Formal parts: see Form 6.

1. I saw A. B., the Lord [*or*, Lady] of the Manor of C., in the county of D., sign the paper writing now produced and shown to me, and marked A. (*p*), and purporting to be his [*or*, her] consent to a vesting order being made in this cause [*or*, matter].

Or, I know and am well acquainted with the handwriting of A. B., the Lord [*or*, Lady] of the Manor of C., in the county of D.; having seen him [*or*, her] write.

2. The name or signature "——," set and subscribed to the said paper writing marked A.,

Or, to the paper writing now produced, *&c.*, and purporting to be [*&c.; as above*].

is of the proper handwriting of the said A. B.

2073.

Summons for vesting order where there has been a judgment or order directing a transfer of stock (*q*).

Formal parts: see Form 43 *or* 1077.

on the part of (*State whom*), that the right to transfer the sum of £—— consolidated 3 per cent. annuities standing in the name of, *&c.*, in the

(*n*) See 13 & 14 Vict. c. 60, s. 20. For forms of order, see 1 Seton, 528—531, Nos. 5—9. As to the effect of a conveyance under the order, see 13 & 14 Vict. c. 60, s. 20.

(*o*) See 13 & 14 Vict. c. 60, s. 28. For forms of orders under s. 28, see 1 Seton, 507, No. 16; 2 *Ibid.*, 1665.

(*p*) Exhibit it. For form of memorandum of exhibit, see Form 28.

(*q*) See R. S. C. Ord. LV. 2 (8). For form of order, see Form 2062, and notes thereto. In *Frodsham* v. *Frodsham*, 15 Ch. D. 317, it was held that an order could not be made in Chambers vesting the right to transfer stock; but the language of the present rule is wider than that of C. O. XXXV. r. 1 (4), and appears to be intended to meet the case: see *In re Tweedy*, W. N. (1884), 233; S. C. (as varied by C. A.), W. N. (1885), 10: 33 W. R. 313. Before such an application can be made in Chambers, there must have been a judgment or order directing a transfer, and neglect to transfer for twenty-eight days after service of the order: 15 & 16 Vict. c. 55, ss. 4—6.

books of the Bank of England, in the order dated the ——, 188—, mentioned, and to receive any dividend now due and to accrue due thereon, may vest in A. B. and C. D. (together with E. F.,; and that they may transfer the same into their own names: to be held by them upon the trusts of the indenture dated, &c. [*or*, will of ——], in the said order mentioned [*or as may be*].

Section V.—Parliamentary Deposits (*a*).

(*Dan. Pr.*, pp. 2130—2137, ccccxxv.)

2074. Request for direction for lodgment of cash (*b*). [Dan. Pr. 2130, 2131.]

(1.) *Deposit in Court and Investment—Payment out in General.*

High Court of Justice,
Chancery Division.
Ex parte the undertaking of the A. B. Railway Bill [*or as may be*].

Ledger credit (Fol. —). } ——.

The Paymaster is hereby requested to issue a direction to the Bank to receive from (*Here insert the name or names of the person or persons named in the warrant or order of one of the Clerks in the office of the Clerks of Parliament, or of one of the Clerks of the Private Bill Office of the House of Commons* (*c*)) the sum of £——, to be lodged pursuant to the Act 9 Vict. c. 20, and a warrant of a clerk in the Office of the Clerks of Parliament [*or as may be*] dated ——, 188—.

(*Signature*) ——.

(*a*) Parliamentary Deposits Act, 9 Vict. c. 20; see 2 Seton, 1455—1461; Stand. Ord. Ho. of Lds. 1884, 56—59; Stand. Ord. Ho. of Com. 1884, 56—59. As to the abandonment of a railway, see Dan. Pr. 2136—2137; 2 Seton, 1459—1460. The Board of Trade is empowered to grant a warrant of abandonment in respect of a railway authorised to be constructed by Act passed before the year 1867: 30 & 31 Vict. c. 127, s. 31. Applications for a warrant of abandonment are now rare. As to a railway authorised by an Act passed in or since 1867, a special Act for abandonment must be obtained: as to which see S. O. H. of C. 1884, 158 (A.). Proceedings under 9 Vict. c. 20, are (1) payment or transfer of deposit into Court: ss. 2, 3; (2) investment of cash deposit and dividends: s. 4; and (3) re-payment or re-transfer of deposit to the depositors, or to persons appointed by them, on the termination of the Session of Parliament in which the bill has been introduced, or the rejection or withdrawal of the bill, or if the bill is not allowed to proceed, or the depositors fail to present a petition, or an Act is passed authorising the undertaking: s. 5; but the Standing Orders require that, in the case of a railway, tramway, or subway, provisions shall be inserted in the special Act authorising the undertaking, to the effect that, notwithstanding the Act, 9 Vict. c. 20, the deposit is under certain circumstances to be applied otherwise than provided by that Act (see note (*q*), *infra*).

(*b*) See 9 Vict. c. 20, ss. 2, 3; S. C. Funds Rules, 1884, r. 30; App. No. 5. The money when lodged will not be placed on deposit: S. C. Funds Rules, 1884, 77 (*b*). A fee of 1*s.* is payable on the request: by a stamp impressed thereon: Ord. as to S. C. Fees, 1884, Sched. No. 106; Ord. as to Fees, &c., July, 1884, p. 11. As to the forms of direction and receipt, see Forms 1727, 1728.

(*c*) See 9 Vict. c. 20, s. 2.

2075.

Request for direction for lodgment of stock (*d*). [Dan. Pr. 2131.]

(*Title as in* Form 2074.)

Ledger credit } ——.
(Fol. —). }

Authority is hereby requested for the transfer by (*Here insert the name or names of the person or persons named in the warrant or order of one of the Clerks in the Office of the Clerks of Parliament, or of one of the Clerks of the Private Bill Office of the House of Commons* (*e*)) to the account of the Paymaster-General for and on behalf of the Supreme Court of Judicature, of (*Here describe the securities; as thus:* £——, consolidated £3 per cent. annuities, and £—— reduced £3 per cent. annuities): which securities are to be transferred pursuant to the Act 9 Vict. c. 20, and a warrant of a clerk in the office of the Clerks of Parliament [*or as may be*] dated ——, 188—.

(*Signature*) ——.

2076.

Summons for investment of deposit money and dividends (*f*). [Dan. Pr. 2131.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*g*).)

In the matter of *Ex parte* the undertaking of the A. B. Railway Bill [*or as may be*].

And in the matter of the Act, 9th Victoria, chapter 20, intituled "An Act to amend an Act of the second year of her present Majesty for providing for the custody of certain moneys paid in pursuance of the standing orders of Parliament by subscribers to works or undertakings to be effected under the authority of Parliament."

Formal parts: as in Form 1078.

on the part of A. B., of, &c., C. D., of, &c., and E. F., of, &c. (*the persons named in the warrant or order, or the survivors or survivor of them* (*h*)),

(*d*) See 9 Vict. c. 20, s. 3; S. C. Funds Rules, r. 30, App. No. 6. As to the fee payable on the request, see note (*b*), *supra*. As to the forms of direction and certificate of transfer, see Forms 1731, 1732.

(*e*) See 9 Vict. c. 20, s. 2.

(*f*) See 9 Vict. c. 20, s. 4; and see R. S. C. Ord. LV. 2 (6), which provides that applications for investment, payment of dividends, and payment out, under that Act, are to be disposed of at Chambers. It is, however, to be observed, that that Act contains no provision for payment of dividends, but only for investment of them. A provision is usually inserted in the special Act authorising the construction of a railway, tramway, or subway, for payment of the dividends on the deposit fund to the depositors until the fund shall have been repaid to them, or become otherwise applicable as therein mentioned (see note (*q*) *infra*). Unless, therefore, a provision is contained in the special Act authorising an undertaking that the dividends on the deposit fund shall be payable to the depositors, it would seem that there is no authority for making an order to that effect. The application for investment of a deposit fund and dividends under s. 4 of 9 Vict. c. 20, is made by originating summons. The money may be invested in India stock: *Re Southwold Railway Co.'s Bill*, 1 Ch. D. 697.

(*g*) See R. S. C. Ord. V. 9 (*b*).

(*h*) See 9 Vict. c. 20, s. 4.

that the sum of £—— cash in Court to the credit of "*Ex parte* the undertaking of the A. B. Railway Bill" may be invested in consolidated £3 per cent. annuities [*or as may be*] ; and that the dividends to accrue on such annuities [*or as may be*]

Or, that the dividends to accrue on the £—— consolidated £3 per cent. annuities, and £—— reduced £3 per cent. annuities [*or as may be*] in Court to the credit of, *&c.*,

may be from time to time invested in like annuities [*or as may be*].

Or, if the summons is framed with a Pay Office schedule: that the funds in Court may be dealt with as directed in the Schedule hereto (*i*).

2077.

Summons for payment out of cash or stock deposit, or stock purchased (*j*). [Dan. Pr. 2132.]

Title as in Form 2076 ; *other formal parts as in* Form 43, *or* 1077 *or* 1078.

on the part of A. B., of, *&c.*, C. D., of, *&c.*, and E. F., of, *&c.* (*the person or persons named in the warrant or order, or the survivor or survivors of them or the majority of them* (*k*)), that the sums of £—— consolidated £3 per cent. annuities, and £—— cash, in Court to the credit of "*Ex parte* the undertaking of the A. B. Railway Bill" [*or as may be*], may be respectively transferred and paid to the applicants.

Or, to G. H., of (*residence and addition*), and I. J., of, *&c.*, for and on behalf of the applicants.

Or, if the summons is framed with a Pay Office schedule: that the funds in Court may be dealt with as directed in the schedule hereto (*l*).

2078.

Affidavit verifying signature of Chairman of Committees of House of Lords, or of Speaker or Deputy Speaker of House of Commons (*m*). [Dan. Pr. 2132.]

Formal parts: see Form 6.

1. I saw the Right Honourable the Earl of Redesdale, Chairman of Committees of the House of Lords,

Or, the Right Honourable Arthur Wellington Peel, Speaker of the House of Commons,

(*i*) The directions for investment will be contained in a payment schedule to the order : S. C. Funds Rules, 1884, r. 6.

(*j*) See 9 Vict. c. 20, s. 5 ; R. S. C. Ord. LV. 2 (6) ; and note (*a*), *supra*. If there has been no previous application with regard to the fund, it will be made by an originating summons : otherwise by an ordinary summons. If the application is for payment and transfer to persons appointed by the depositors, the summons should, by analogy to the practice on petitions, be signed by the applicants, and their signatures attested ; and where a public company applies, the summons should be sealed with its common seal : see Dan. Pr. 2133 ; 2 Seton, 1457. For form of order, see 2 Seton, 1455, No. I. For form of order for payment out on certificate of Treasury Solicitor of execution of bond, under the provisions of a special Act, see 2 Seton, 1455, No. 2. In the year 1867 the standing order providing for the insertion in a special Act of a provision for giving security by bond was rescinded : so that such a provision will not be found in any Act passed since that year.

(*k*) See 9 Vict. c. 20, s. 5.

(*l*) The directions for payment out will be contained in a payment schedule to the order : S. C. Funds Rules, 1884, r. 6.

(*m*) See 9 Vict. c. 20, s. 5.

Or, ——, esquire, Deputy Speaker of the House of Commons (*n*), sign the certificate or paper writing now produced and shown to me, and marked A (*o*), and purporting to be (*State, shortly, what; as thus:* a certificate dated the ——, 188—, that on the —— day of ——, 188—, the Royal assent was given to an Act of Parliament intituled, An Act (*Full title*)),

Or, 1. I know and am well acquainted with the handwriting of the Right Honourable (*&c.: as above*), having seen him write.

2. The name or signature "——," set and subscribed to the said paper writing [*or*, to the paper writing now produced, *&c.*, and purporting to be, *&c.* (*as above*)], is of the proper handwriting of the said Earl of Redesdale [*or as may be*].

2079.

Affidavit verifying the signatures to a summons (*p*). [Dan. Pr. 2133.]

Formal parts: see Form 6.

1. On the —— day of ——, 188—, I saw A. B. and C. D. respectively named in the paper writing now produced and shown to me, and marked A (*o*), and purporting to be a summons taken out by them in this matter, duly sign the said summons.

2. The names or signatures "——" and "——," respectively set and subscribed at the foot of the said summons, are of the respective proper handwriting of the said A. B. and C. D.

(2.) *Application of deposit under Special Acts relating to Railways, Tramways and Subways* (*q*).

(*q*) *Forfeiture of deposit.*—The Parliamentary Deposits Act (as to which see note (*a*), *supra*), provides for re-payment or re-transfer of the deposits to the depositors in certain events (s. 5). The Standing Orders provide that, in the case of a railway, tramway, or subway Act, clauses shall be inserted in the special Act authorising the undertaking, to the effect that, notwithstanding anything contained in the Parliamentary Deposits Act, the deposit shall not be paid or transferred to the depositors unless the company shall, previously to the expiration of the period limited by the special Act for completion of the undertaking, open the railway, tramway, or subway for public traffic; or (if a passenger railway) for the public conveyance of passengers; but that a proportionate part of the deposit shall be released, if a part of the undertaking shall be so opened within the prescribed time; and that, if the company do not so open the undertaking within the prescribed time, the deposit, or so much thereof as shall not have been paid to the depositors—or any sum of money recovered by way of penalty in the case of an undertaking promoted by an existing company which is possessed of a railway, tramway, or subway already opened for public traffic, and which has, during the past year, paid dividends on its ordinary capital, and which does not propose to raise, under the bill, a capital greater than its existing authorised capital—shall be applicable, and, after due notice in the Gazette, shall be applied, towards compensating any landowners or other persons whose property may have been interfered with, or otherwise rendered less valuable, by the commencement, construction, or abandonment of the said railway, tramway, or subway, or any portion thereof, or who may have been

(*n*) As to the Deputy Speaker, see *Ex parte Stockbridge Railway Bill*, L. R. 2 Eq. 364: 12 Jur. N. S. 465.

(*o*) Exhibit it. For form of memorandum of exhibit, see Form 28.

(*p*) See 2 Seton, 1457.

subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the company by the Act; and also (in the case of a tramway) in compensating all road authorities for the expense incurred by them in taking up any tramway, or materials connected therewith, placed by the company in or on any road vested in or maintainable by such road authorities respectively, and in making good all damage caused to such roads by the construction or abandonment of such tramway; and for which injury or loss no compensation, or inadequate compensation, shall have been paid; and shall be distributed, in satisfaction of such compensation as aforesaid, in such manner, and in such proportions, as to the Court may seem fit; and if no such compensation shall be payable, or if a portion of the deposit fund, or of the sum or sums of money recovered by way of penalty as aforesaid, shall have been found sufficient to satisfy all just claims in respect of such compensation, then the deposit fund, or the sum or sums of money recovered by way of penalty as aforesaid, or such portion thereof as may not be required as aforesaid, shall—either be forfeited to Her Majesty, and shall accordingly be paid or transferred to or for the account of Her Majesty's Exchequer, in such manner as the Court thinks fit to order, on the application of the solicitor to Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom—or, in the discretion of the Court, if the company is insolvent, and has been ordered to be wound up, or a receiver has been appointed, shall wholly, or in part, be paid or transferred to such receiver, or to the liquidator or liquidators of the company, or be otherwise applied as part of the assets of the company, for the benefit of the creditors thereof. In a bill authorising the construction of a new line, or extending the time for completing a line already authorised, not promoted by an existing company qualified as stated above, it is further provided that, until the deposit fund shall have been repaid to the depositors, or shall have become otherwise applicable as thereinbefore mentioned, any interest or dividends accruing thereon shall, from time to time, and as often as the same shall become payable, be paid to or on the application of the depositors: S. O. H. of L. 1884, 114—117, 133*a*; S. O. H. of C. 1884, 158; and see Dan. Pr. 2133—2136; 2 Seton, 1457, 1458. For form of order for transfer and payment out of part of a deposit fund on part completion of works, see 2 Seton, 1455, No. 3.

2080. Summons for payment of dividends on stock deposited in Court (*r*).

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)

In the matter of *Ex parte* the Undertaking of the A. B. Railway Bill [*or as may be*].

And in the matter of the A. B. Railway Act, 18— [*or as may be*].

Formal parts: as in Form 1078.

on the part of A. B., of, *&c.*, C. D., of, *&c.*, and E. F., of, *&c.* (*the depositors*), that the sum of £—— cash in Court to the credit of "*Ex parte* the undertaking of the A. B. Railway Bill," being the amount of dividends accrued on the £—— annuities [*or as may be*] in Court to the same credit, may be paid to the applicants,

Or, to G. H., of (*residence and addition*), and I. J., of, *&c.* (*s*),

(*r*) See R. S. C. Ord. LV. 2 (3). The application is made by originating summons, and must be entitled in the matter of the special Act authorising the undertaking, and not the Parliamentary Deposits Act (9 Vict. c. 20); for, notwithstanding R. S. C. Ord. LV. 2 (6), the Act contains no provision for payment of dividends: see note (*f*), *supra*.

(*s*) If the application is for payment to persons appointed by the depositors, the summons should be signed by the applicants: see note (*j*), *supra*.

and that the dividends, as they accrue, on the said £—— annuities, may be paid to the applicants, or to any one or more of them,

Or, to the said G. H. and I. J., or to either of them,

until further order.

Or, if the summons is framed with a Pay Office schedule: that the funds in Court may be dealt with as directed in the schedule hereto (*t*).

(*Same as* Form 2079.)

2081. Affidavit verifying signatures to summons.

2082. Petition by landowners for inquiries and distribution of a deposited fund exceeding £1,000 (*u*). [Dan. Pr. 2133—2136.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge* (*uu*)).

In the matter of *Ex parte* the Undertaking of the A. B. Railway Bill.

And in the matter of the A. B Railway Act, 188—.

To Her Majesty's High Court of Justice.

The humble petition of A. B., of, *&c.*, and C. D., of, *&c.* (*landowners*).

Showeth as follows:

1. By the A. B. Railway Act, 188—, which Act received the Royal assent on the —— day of ——, 188—, the A. B. Railway Company (hereinafter called the Company) was incorporated, with power to make and maintain the railway therein mentioned. By the —— section of the same Act, if the said railway should not be completed within —— years from the passing of the Act, then, on the expiration of that period, the powers by the Act granted to the Company for making and com-

(*t*) The directions for payment will be contained in a payment schedule to the order: S. C. Funds Rules, 1884, r. 6.

(*u*) See note (*q*), *supra*. As to penalties imposed when the undertaking is promoted by an existing company which fails to complete the works within the prescribed time, and the application of such penalties, see S. O. H. of L. 1884, 114, 116; S. O. H. of C. 1884, 158 (A), (C). Where, by the special Act, it is provided that an application for payment out shall be made by petition (a provision, however, which is of very rare occurrence), it is still proper to apply by petition: *In re Hull, Barnsley, and West Riding Junction Railway and Dock Act*, 28 Sol. J. 165; and it would seem that the application should also be by petition when the deposit exceeds 1000*l.*, as R. S. C. Ord. LV. 2 (6), *only refers to applications under 9 Vict. c.* 20, *and not to applications under Special Acts*. The application cannot be made by the depositors: who, when the deposit has become applicable under the provisions of the special Act, have no further claim upon it. It has, however, been the practice to make them respondents. The application can be made by landowners (and, in the case of a tramway, by road authorities) entitled to compensation for damage to their property, or, subject to providing for such compensation, by the Treasury Solicitor claiming forfeiture; or, if the company is insolvent and has been ordered to be wound up, or a receiver has been appointed, by the official liquidator of the company, or the receiver. The form of petition given can be adapted to the case of a tramway or subway Act.

(*uu*) See R. S. C. Ord. V. 9 (*d*).

pleting the railway or otherwise in relation thereto, should cease to be exercised, except as to so much thereof as should then be completed.

2. By section —— of the Act, after reciting, as the fact was, that, pursuant to the Standing Orders of both Houses of Parliament, and to an Act of the 9th year of the reign of her present Majesty, chapter 20, a sum of £—— had been deposited (*v*) with the Chancery Division of the High Court of Justice in England, in respect of the application to Parliament for the said Act: it was enacted that, notwithstanding anything contained in the said Act 9 Vict. c. 20, the said deposit fund should not be paid or transferred to, or on the application of, the person or persons, or the majority of the persons, named in the warrant or order issued in pursuance of the said Act, or the survivors or survivor of them (which persons, survivors, or survivor, were in the now reciting Act referred to as "the depositors"), unless the Company should, previously to the expiration of the period limited by the Act for completion of the railway thereby authorised to be made, open the said railway for the public conveyance of passengers.

If a portion of the railway has been completed within the prescribed time, add: Provided that, if within such period as aforesaid, the company should open any portion of the said railway for the public conveyance of passengers, then on production of a certificate of the Board of Trade specifying the length of the portion of the said railway opened as aforesaid, and the portion of the deposit fund which bore to the whole of the deposit fund the same proportion as the length of the said railway so opened bore to the entire length of the said railway thereby authorised, the Chancery Division should, on the application of the depositors, or the majority of them, order the said portion of the deposit fund, so specified in such certificate as aforesaid, to be paid or transferred to them or as they should direct.

3. By section —— of the Act it was enacted as follows: (*Set out verbatim the section of the Special Act providing for the forfeiture or other application of the deposit fund*).

4. Pursuant to an order of this Court dated the —— day of ——, 188—, and made in this matter and in the matter of the said Act, 9 Vict. c. 20, the said sum of £—— was invested in the sum of £—— consolidated £3 per cent. annuities [*or as may be*]; and the dividends on the said annuities were from time to time, down to the —— day of ——, 188—, paid to the depositors [*or as may be*].

If a portion of the deposit has been paid out, add: 5. Before the time for that purpose limited by the A. B. Railway Act, 188—, the company opened for the public conveyance of passengers a portion of the said railway, —— miles and —— chains in length; and, pursuant to an order in this matter dated the —— day of ——, 188—, the sum of £—— consolidated 3 per cent. annuities: being the portion of the said sum of £—— like annuities which bore to the whole of the said sum of

(*v*) If stock has been transferred into Court as a deposit, instead of the payment in of cash (see 9 Vict. c. 20, s. 3), it will be so stated, and the form will be varied accordingly.

£—— annuities the same proportion as the length of the said railway so opened bore to the entire length of the said railway by the said Act authorised to be constructed: was transferred to the said depositors: leaving the sum of £—— like annuities remaining in Court; and since the said —— day of ——, 188—, and down to the —— day of ——, 188—, the dividends, as they from time to time accrued, on the said sum of £—— annuities, were paid to the depositors (*w*).

6. The said sum of £—— consolidated 3 per cent. annuities, and the sum of £—— cash, representing the dividends which have accrued on such last-mentioned annuities since the said —— day of ——, 188—, are now standing in Court to the credit of "*Ex parte* the Undertaking of the A. B. Railway Bill."

7. Although the period limited by the aforesaid Act for the completion of the said railway thereby authorised expired on the —— day of ——, 188—, the said railway [*or, if a portion has been opened, say:* a portion of the said railway, —— miles and —— chains in length] has not been opened for the public conveyance of passengers.

8. *State the circumstances under which the claim of the petitioners, being landowners, to compensation has arisen, and proceed as follows:* Your petitioners submit that, under the circumstances herein appearing, the whole of the said sums of £—— consolidated 3 per cent. annuities and £—— cash in Court to the credit aforesaid—or so much thereof as may be found sufficient to satisfy the claims of your petitioners, and any other landowners claiming compensation—has become applicable to the payment of such claims; and your petitioners are desirous that, after proper inquiries, the whole of the said annuities and cash, or so much thereof as may be found sufficient to satisfy such claims, may be transferred and paid to your petitioners, or to them and such other landowners as may be found entitled to compensation.

If so: 9. The said company has not been ordered to be wound up, nor has a receiver of the property and effects of the same been appointed; and the solicitor for the affairs of Her Majesty's Treasury claims that, subject to the claim, if any, of your petitioners, and of any other landowners as aforesaid, being provided for, the said sums of £—— annuities and £—— cash may be transferred and paid to or for the account of Her Majesty's Exchequer.

Or, if the company is insolvent, and has been ordered to be wound up, or a receiver has been appointed, state the fact, and add: 9. The solicitor for the affairs of Her Majesty's Treasury claims that—subject to the claims, if any, of your petitioners and such other landowners as aforesaid being provided for—the said sums of £—— consolidated 3 per cent. annuities and £—— cash may be transferred and paid to or for the account of Her Majesty's Exchequer; and the said official liquidator [*or*, receiver] claims that, after providing for such claims as aforesaid, the said sums of annuities and cash may

(*w*) The dividends accrued down to the date fixed for the completion of the works will be paid to the depositors: *Re Potteries, Shrewsbury, and North Wales Railway Co.*, 25 Ch. D. 251, 266: 32 W. R. 300.

be transferred and paid to him, for the benefit of the creditors of the said company.

10. The respondents E. F. and G. H. claim to have provided the said deposit fund, and to have an interest in the said sums of annuities and cash.

Your petitioners therefore humbly pray:

1. That an inquiry may be directed whether there are any, and if so what, landowners and other persons whose property has been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said railway, or any portion thereof, or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the company by the said Act, and for which injury or loss no compensation or inadequate compensation has been paid (*x*).

2. That the whole of the said sums of £—— consolidated 3 per centum annuities and £—— cash, or so much thereof as shall be found sufficient to satisfy the claims of your petitioners, and such other landowners as aforesaid, may be transferred and paid to them respectively, in the proportions in which they may respectively be found entitled.

3. That, in the meantime, the payment of all future dividends under the said order of the ——, 188—, may be stayed.

Or that (*&c.: Conclude as in* Form 40).

NOTE.—It is intended to serve this petition on the said E. F. and G. H., and the solicitor for the affairs of Her Majesty's Treasury (*If the company has been ordered to be wound up, or a receiver has been appointed, add:* and the said Y. Z. (*the official liquidator, or receiver*)).

2083. Petition by the Treasury solicitor for inquiries and distribution of a deposited fund exceeding £1,000 (*xx*). [Dan. Pr. 2133—2136.]

(*Title, &c.: as in* Form 2082.)

The humble petition of the solicitor for the affairs of Her Majesty's Treasury.

Showeth as follows:

1 *to* 7. *Same as* Form 2082.

If so: 8. The said company has not been ordered to be wound up, nor has a receiver of the property and effects of the same been appointed.

Or, if the company is insolvent and has been ordered to be wound up, or a receiver has been appointed, state the fact, and add, if so:

8. The said Y. Z. (*the official liquidator, or receiver*) claims that, subject to compensation to landowners, if any, entitled to compensation, the said annuities and cash may be transferred and paid to him as such official liquidator [*or*, receiver] as aforesaid, for the benefit of the creditors of the company.

9. Your petitioner submits that, under the circumstances herein appearing, subject to provision being made for compensation to land-

(*x*) In the case of a tramway the inquiry will extend to road authorities, see S. O. H. of L. 1884, 116; S. O. H. of C. 1884, 158 (C). For form of inquiry as to road authorities, see Form 2087.

(*xx*) See note (*u*), *supra*.

owners, or other persons entitled to compensation, if any (*If the company is insolvent and has been ordered to be wound up, or a receiver has been appointed, add:* including the *bonâ fide* or meritorious creditors of the company) (*y*), the said sums of £—— annuities and £—— cash in Court to the credit aforesaid have become forfeited to Her Majesty; and your petitioner is desirous that, after proper inquiries, so much of the said annuities and cash as may not be found applicable to the payment of such compensation as aforesaid, may be transferred and paid to or for the account of Her Majesty's Exchequer in manner hereinafter prayed.

10. The respondents E. F. and G. H. claim to have provided the said deposit fund, and to have an interest in the said sums of annuities and cash.

Your petitioner therefore humbly prays:

1. That the said sum of £—— consolidated 3 per cent. annuities in Court to the credit of "*Ex parte* the undertaking of the A. B. Railway Bill," may be sold, and that the proceeds thereof, together with the said sum of £—— cash in Court to the same credit, may, upon the requisition of Her Majesty's Paymaster-General, be transferred to the account of Her Majesty's Paymaster-General "Cash Account" at the Bank of England.

2. That all necessary and proper inquiries and directions for the purposes of this petition may be made and given.

3. *Same as paragraph* 3 *in* Form 2082.

Or that (*&c.: Conclude as in* Form 40).

NOTE.—It is intended to serve this petition on the said E. F. and G. H. (*If the company has been ordered to be wound up or a receiver has been appointed, add:* and the said Y. Z. (*the official liquidator, or receiver*)).

2084.

Petition by the official liquidator or receiver of the company, for inquiries, and distribution of a deposited fund exceeding £1,000 (*yy*). [Dan. Pr. 2136.]

(*Title, &c.: as in* Form 2082.)

The humble petition of Y. Z., of, *&c.*, the official liquidator of [*or*, the receiver of the property and effects of] the A. B. Railway Company.

Showeth as follows:

1. *to* 7. *Same as* Form 2082.

8. (*State the facts of the Company having been ordered to be wound up, and the appointment of the official liquidator or receiver.*)

9. Your petitioner submits that under the circumstances herein appearing (subject to provision being made for compensation to landowners or other persons, if any, whose property has been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said railway or any portion thereof, or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by the said Act, and for

(*y*) See *In re Lowestoft, Yarmouth, and Southwold Tramways Co.*, 6 Ch. D. 484.
(*yy*) See note (*u*), *supra*.

which no compensation or inadequate compensation has been paid) the said sums of £—— consolidated 3 per cent. annuities and £—— cash, in Court to the credit aforesaid, have become applicable as part of the assets of the Company for the benefit of the creditors thereof; and your petitioner is desirous that, after proper inquiries, so much of the said annuities and cash as may not be found applicable to the payment of such compensation may be transferred and paid to your petitioner as such official liquidator [*or*, receiver] as aforesaid, for the benefit of the creditors of the Company.

10. The respondents E. F. and G. H. claim to have provided the said deposit fund, and to have an interest in the said sums of annuities and cash.

Your petitioner therefore humbly prays:

1. That the said sums of £—— consolidated 3 per cent. annuities and £—— cash, in Court to the credit of "*Ex parte* the undertaking of the A. B. Railway Bill," may be respectively transferred and paid to your petitioner, as such official liquidator [*or*, receiver] as aforesaid: to be applied by him as assets of the said Company for the benefit of the creditors thereof.
2. That all necessary and proper inquiries and directions for the purposes of this petition may be made and given.
3. *Same as paragraph* 3 *in* Form 2082.

Or that (*&c.*: *Conclude as in* Form 40).

NOTE.—It is intended to serve this petition on the said E. F. and G. H. and on the solicitor for the affairs of Her Majesty's Treasury.

2085.

Summons by landowners, or the Treasury solicitor for inquiries and distribution of a deposited fund not exceeding £1,000 (*z*). [Dan. Pr. 2135.]

(*Title as in* Form 2082; *other formal parts: see* Form 43, *or* 1077 *or* 1078.)

on the part of A. B., of, *&c.*, and C. D., of, *&c.* (*landowners*) [*or*, of the solicitor for the affairs of Her Majesty's Treasury], that, subject to all proper inquiries (*a*) being made, the sum of £—— consolidated 3 per cent. annuities [*or as may be*],

If the application is by landowners, proceed as follows: and £—— cash, in Court to the credit of "*Ex parte* the undertaking of the A. B. Railway Bill," may be respectively transferred and paid to the applicants.

If the application is by the Treasury solicitor, proceed as follows: in Court to the credit of, *&c.* (*as above*), may be sold, and that the proceeds thereof, together with the sum of £—— cash in Court to the same credit, may, upon the requisition of Her Majesty's Paymaster-General, be transferred to the account of Her Majesty's Paymaster-General "Cash Account" at the Bank of England.

(*Address of Summons.*)

If the application is by landowners, say: To E. F. and G. H. (*Names of depositors*); and to the solicitor for the affairs of Her Majesty's Treasury.

(*z*) See notes (*q*) and (*u*), *supra*.

(*a*) For the form of the inquiries, see Form 2087.

If it is by the Treasury solicitor, say: To E. F. and G. H. (*Names of depositors*).

In either case, if the Company is insolvent, and has been ordered to be wound up or a receiver has been appointed, add: and to Y. Z., the official liquidator [*or*, the receiver of the property and effects] of the A. B. Railway Company.

2086.

Summons by official liquidator or receiver, for the like (*b*). [Dan. Pr. 2135.]

(*Title as in* Form 2082; *other formal parts: see* Form 43, *or* 1077 *or* 1078.)

on the part of Y. Z., the official liquidator of the A. B. Railway Company,

Or, the receiver of the property and effects of the A. B. Railway Company,

that, subject to all proper inquiries (*c*) being made, and to the payment of compensation to such persons as may be found entitled thereto, the sums of £—— consolidated 3 per cent. annuities [*or as may be*], and £—— cash, in Court to the credit of "*Ex parte* the undertaking of the A. B. Railway Bill," may be respectively transferred and paid to the applicant as such official liquidator [*or*, receiver] as aforesaid: to be applied by him as assets of the said Company, for the benefit of the creditors thereof.

To,

E. F. and G. H. (*the depositors*); and to the solicitor for the affairs of Her Majesty's Treasury.

2087.

Order for inquiries as to landowners, road authorities, and creditors (*d*). [Dan. Pr. 2135.]

Formal parts: see 2 Seton, 1456, No. 4.

1. An inquiry whether there are any, and if so what, landowners and other persons whose property has been interfered with, or otherwise rendered less valuable, by the commencement, construction, or abandonment of the said railway [*or*, tramway—*or*, subway], or any portion thereof.

2. An inquiry whether any, and if any what, compensation has been paid in respect of such interference or diminution in value, if any.

3. An inquiry what sums will make compensation for such interference or diminution in value, if any.

In the case of a tramway, add:

4. An inquiry whether there are any, and if so what, road authorities who have incurred expense in taking up any tramway, or materials connected therewith, placed by the A. B. Tramway Company in or on any road vested in or maintainable by such road

(*b*) See notes (*q*) and (*u*), *supra*.

(*c*) For the form of the inquiries, see Form 2087.

(*d*) As to inquiries with respect to landowners, see *Re The Potteries, Shrewsbury, and North Wales Railway Co.*, 25 Ch. D. 251: 32 W. R. 300.

authorities respectively, or in making good damage caused to such road by the construction or abandonment of such tramway.

5. An inquiry whether any, and if any what, compensation has been paid in respect of such expense or damage as aforesaid, if any.

6. An inquiry what sums will make compensation for such expense and damage respectively, if any.

If the company is insolvent, and has been ordered to be wound up, or a receiver has been appointed, add:

7. An inquiry whether there are any and what assets of the company applicable for payment of its debts (*e*).

8. An inquiry whether there are any and what debts of the company which ought to be paid out of the fund in Court to the credit of "*Ex parte* the undertaking of the A. B. Railway [*or*, Tramway—*or*, Subway] Bill."

2088.

Advertisment for landowners, or road authorities, claiming compensation (*f*).
[Dan. Pr. 2135.]

Pursuant to an order of the Chancery Division of the High Court of Justice, dated the —— day of ——, 188—, and made in the matter of *Ex parte* the undertaking of the A. B. Railway [*or*, Tramway—*or*, Subway] Bill, and in the matter of the A. B. Railway [*or*, Tramway—*or*, Subway] Act, 188—, any landowners or other persons whose property has been interfered with, or otherwise rendered less valuable, by the commencement, construction, or abandonment of the said railway [*or*, tramway—*or*, subway], or any portion thereof (*If compulsory powers of taking land are conferred by the Act, add:* or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the A. B. Railway [*or*, Tramway—*or*, Subway] Company by the said Act, and for which injury or loss no compensation or inadequate compensation has been paid);

Add, in the case of a tramway: and any road authorities who have incurred expense in taking up any tramway or materials connected therewith, placed by the A. B. Tramway Company in or on any road vested in, or maintainable by, such road authorities respectively, or in making good any damage caused to such road by the construction or abandonment of such tramway;

are, on or before the —— day of ——, 188—, to come in and prove their claims at the chambers of Mr. Justice ——, Royal Courts of Justice, Strand, Middlesex; or, in default thereof, they will be peremptorily excluded from the benefit of the said order.

——day, the —— day of ——, 188—, at —— of the clock in the

(*e*) The deposit will not be applied in paying debts of the company until the other assets have been exhausted: *Re Bradford Tramways Co.*, 4 Ch. D. 18.

(*f*) The clause inserted in a special Act pursuant to the Standing Orders requires notice to be given in the Gazette only (S. O. H. of L. 1884, 116; S. O. H. of C. 1884, 158 (*e*)); but the advertisement is not uncommonly inserted in London and local newspapers as well.

——noon, at the said Chambers, is appointed for hearing and adjudicating upon the claims.

Dated this —— day of ——, 188—.

R. M.,
Chief Clerk.

2089.

Advertisement for creditors, when company is insolvent, and ordered to be wound up, or a receiver appointed (*g*). [Dan. Pr. 2135.]

Pursuant to an order of the Chancery Division of the High Court of Justice, dated the —— day of ——, 188—, and made in the matter of *Ex parte* the undertaking of the A. B. Railway [*or*, Tramway—*or*, Subway] Bill, and in the matter of the A. B. Railway [*or*, Tramway—*or*, Subway] Act, 188—, creditors claiming debts and liabilities affecting a sum of £—— consolidated 3 per cent. annuities in Court to the credit of *Ex parte* the undertaking of the A. B. Railway [*or*, Tramway—*or*, Subway] Bill: which sum was transferred into Court pursuant to the Standing Orders of both Houses of Parliament, and to an Act of the 9th year of the reign of her present Majesty, chapter 20, in respect of the application to Parliament for the A. B. Railway [*or*, Tramway—*or*, Subway] Act, 188—: are, on or before the —— day of ——, 188—, to send their names and addresses, and the particulars of their debts or claims, and the names and addresses of their solicitors, if any, to Y. Z., of, &c., the official liquidator [*or*, the receiver appointed of the property and effects] of the said company; and, if so required by notice in writing from the said official liquidator [*or*, receiver], are, by their solicitors, to come in and prove their debts or claims, at the Chambers of Mr. Justice ——, Royal Courts of Justice, Strand, Middlesex, at such time as shall be specified in such notice; or, in default thereof, they will be excluded from the benefit of any distribution made before such debts are proved.

——, the —— day of ——, 188—, at —— of the clock in the —— noon, at the said Chambers, is appointed for hearing and adjudicating upon the debts and claims.

Dated this —— day of ——, 188—.

R. M.,
Chief Clerk.

(*g*) See note (*q*), *supra*; and 2 Seton, 1458, for the provisions of a special Act for application of the deposit in the event of the company being insolvent and ordered to be wound up, or a receiver appointed; and S. O. H. of L. 1884, 116; S. O. H. of C. 1884, 158 (*c*). See also the form of inquiry as to debts, Form 2087. Only *bonâ fide* or meritorious creditors: that is such as have not directly or indirectly been promoters of the company: have a claim on the deposit: *Re Lowestoft, Yarmouth, and Southwold Tramways Co.*, 6 Ch. D. 484; *Re Birmingham and Lichfield Junction Railway Co.*, W. N. (1885), 23. The deposit will not be applied in paying debts of the company until the other assets have been exhausted: *Re Bradford Tramways Co.*, 4 Ch. D. 18.

Section VI.—The Lands Clauses Consolidation Acts, 1845, 1860, and 1869 (*h*).

(*Dan. Pr.*, pp. 2137—2171, ccccxxv.)

2090.

Request for direction for lodgment of cash under s. 69 (*i*). [Dan. Pr. 2139.]

High Court of Justice,
Chancery Division.
Ledger credit } *Ex parte* A. B., C. D., *&c.* (*Name the promoters*). In the
(Fol. ——). } matter of the Act (*Cite the special Act*). The account of the lands at, *&c.*, whereof L. M. is tenant for life [*or as may be*; *add some words briefly expressive of the nature of the disability to sell and convey, by reason whereof the money is paid into Court*].

The Paymaster is hereby requested to issue a direction to the bank to receive from A. B., C. D., *&c.*, the sum of £——, lodged pursuant to section 69 of the Act 8 Vict. c. 18, and (*Cite the special Act or Acts under which the land is taken*).

(*Signature*) ——.

2091.

The like, under s. 76 (*j*). [Dan. Pr. 2154.]

High Court of Justice,
Chancery Division.
Ledger credit } In the matter of the Act (*Cite the special Act*). The
(Fol. ——). } account of L. M. (*Describe, so far as the promoters of the undertaking can do so, the parties interested in the lands taken in respect of whose interest the money is paid into Court* (*k*)).

The Paymaster is hereby requested to issue a direction to the bank to receive from A. B., C. D., *&c.* (*Name the promoters of the undertaking*), the sum of £——, lodged pursuant to section 76 of the Act 8 Vict. c. 18, and (*Cite the special Act or Acts under which the land is taken*).

(*Signature*) ——.

2092.

The like, under s. 85 (*l*). [Dan. Pr. 2168.]

High Court of Justice,
Chancery Division.
Ledger credit } In the matter of the Act (*Cite the special Act*). The
(Fol. ——). } account of L. M. (*Name the parties interested in or entitled to sell and convey the lands entered upon*) (*m*).

(*h*) See 8 & 9 Vict. c. 18; amended by the Lands Clauses Consolidation Acts, 1860 (23 & 24 Vict. c. 106), and 1869 (32 & 33 Vict. c. 18); see 2 Seton, 1415—1450; Morgan, 24—48.

(*i*) See 8 & 9 Vict. c. 18, ss. 69, 73; S. C. Funds Rules, 1884, 30, 39; Morgan, 29—33. A fee of 1*s.* is payable on the request: by a stamp impressed thereon: Ord. as to S. C. Fees, 1884, Sched. No. 106; Ord. as to Fees, &c., July, 1884, p. 11. As to the forms of direction and certificate, see Forms 1727, 1728.

(*j*) See 8 & 9 Vict. c. 18, s. 76; Morgan, 35, 36; S. C. Funds Rules, 1884, r. 30. As to the fee payable on the request, see note (*i*), *supra*. As to the forms of direction and receipt, see Forms 1727, 1728.

(*k*) See 8 & 9 Vict. c. 18, s. 76.

(*l*) See 8 & 9 Vict. c. 18, ss. 85, 86; 30 & 31 Vict. c. 127, s. 36; Morg. 58, 59. As to the fee payable on the request, see note (*i*), *supra*. As to the forms of direction and receipt, see Forms 1727, 1728.

(*m*) See 8 & 9 Vict. c. 18, s. 86.

The Paymaster is hereby requested to issue a direction to the bank to receive from A. B., C. D., *&c.* (*Name the promoters of the undertaking*), the sum of £——, lodged pursuant to section 85 of the Act 8 Vict. c. 18, and the Act (*Cite the special Act or Acts under which the land is taken or entered upon*).

(*Signature*) ——.

2093. Summons for interim investment of deposited money, and payment of income to a tenant for life (*n*). [Dan. Pr. 2146.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*o*).)

In the matter of (*Describe the particular will or settlement affecting the lands; as thus:* the will of A. B., deceased).
And in the matter of the Lands Clauses Consolidation Acts, 1845 and 1869.
And in the matter of the (*Short title of the special Act*) (*p*).

Formal parts: as in Form 1078.

on the part of C. D., of (*residence and addition*), that the sum of £—— cash in Court to the credit of (*State what*) may be invested in consolidated £3 per cent. annuities [*or as may be*], to the credit of "*Ex parte* the —— Act" (*Cite the special Act*), to an account to be entitled "The account of the estates devised by the will of A." [*or as may be*]; and that the dividends as they accrue, during the life of the applicant, on such annuities may be, until further order, paid to the applicant C. D.

Or, that the funds in Court may be dealt with as directed in the schedule hereto (*q*).

And that, pursuant to the 80th section of the Lands Clauses Consolidation Act, 1845 (*r*), the —— company may be ordered to pay to the applicant his costs as thereby provided for: including therein all reasonable charges and expenses of and incident to the purchase by the said company, and of the conveyance to them, and of this application, and of all proceedings relating thereto [*or as may be*]: such costs, charges, and expenses to be taxed by the Taxing Master, in case the parties differ.

(*n*) See 8 & 9 Vict. c. 18, s. 70; 2 Seton, 1419, 1420, 1422, 1423; Morg. 39, 40; R. S. C. Ord. LV. 2 (7); *Ex parte Mayor, &c., of London*, 25 Ch. D. 384: 32 W. R. 87. The application is made by originating summons, unless there has been any previous dealing with the fund: in which case the application is made by ordinary summons. As to who may apply and the persons to be served, see Dan. Pr. 2147—2149. For forms of orders, see 2 Seton, 1419, Nos. 1—3: 1420, Nos. 5, 6. The form may easily be adapted to the case where the money has been paid in under s. 76: see 8 & 9 Vict. c. 18, s. 78; Dan. Pr. 2154, 2155; Morgan, 36, 37; and to the case where the money has been paid in under s. 85: see 8 & 9 Vict. c. 18, s. 87; Dan. Pr. 2168; Morgan, 47, 48.

(*o*) See R. S. C. Ord. V. 9 (*b*).

(*p*) As to the title of the summons, see Dan. Pr. 2148; 2 Seton, 1424.

(*q*) The directions for investment and payment of dividends will be contained in a payment schedule to the order: S. C. Funds Rules, 1884, rr. 10, 46.

(*r*) As to costs payable under s. 80, see Dan. Pr. 2156—2168; 2 Seton, 1441—1447; Morgan, 37—44; Morgan & Wurtzburg, 282—310, 811, 817. For form of order under s. 80, see 2 Seton, 1441, No. 1.

2094.

Summons to approve of investment in land of deposited money (*s*). [Dan. Pr. 2138, 2141.]

(*Title as in* Form 2093 ; *other formal parts as in* Form 43, *or* 1077 *or* 1078).

on the part of C. D. (*tenant for life*) :

That the freehold hereditaments situate at ——, in the county of ——, comprised in the agreement dated the —— day of ——, 188—, and made between the applicant of the one part, and G. H., of, *&c.*, of the other part, may be approved of as a fit and proper purchase wherein to invest the sum of £——.

That an inquiry may be made whether a good title can be made to the said freehold hereditaments.

That in case a good title can be made thereto, a proper conveyance of the said hereditaments to the uses of the will of A. B. above-mentioned may be directed to be settled.

That upon the due execution of such conveyance by such parties as the Judge shall direct being certified, the said sum of £—— may be directed to be raised out of the sum of £—— consolidated £3 per cent. annuities in Court to the credit of (*&c.: state what, as in the Paymaster's certificate*), and be paid to such person or persons as shall be certified to be entitled to receive the same.

That the dividends as they accrue, during the life of the applicant, on the residue of the said annuities may be paid to the applicant until further order.

(*s*) *Application of purchase-money.*—As to the application of purchase-money or compensation paid into Court under 8 & 9 Vict. c. 18, ss. 69, 73, see 8 & 9 Vict. c. 18, s. 69 ; Dan. Pr. 2140—2146 ; 2 Seton, 1423—1434 ; Morgan, 27—33. The money deposited may be applied as capital money arising under the Settled Land Act, 1882, see 45 & 46 Vict. c. 38, s. 32 ; Dan. Pr. 2139, 2145 ; *Re Duke of Rutland's Settlement*, W. N. (1883), 140 : 31 W. R. 947. As to who may apply, see 8 & 9 Vict. c. 18, s. 70 ; Dan. Pr. 2146, 2147. As to the mode in which the application is made, see Dan. Pr. 2146 ; R. S. C. Ord. LV. 2(7), which provides that the application should be made in Chambers. The application is made by originating summons, except in cases where there has been a previous dealing with the fund : in which case it is made by ordinary summons. Where it was proposed to expend a sum of 7000*l.* in new buildings, it was held that the application was properly made by petition, see *Ex parte Jesus College, Cambridge*, W. N. (1884), 37 ; as to the service, see Dan. Pr. 2149 ; as to the evidence in support, see R. S. C. Ord. LII. 18 ; Dan. Pr. 2147 ; Form 2096 ; and note thereto. For forms of orders, see 2 Seton, 1425, 1426, Nos. 1—3 : 1427—1430, Nos. 1—4 : 1430, 1431, Nos. 1—4. As to allotting compensation to a person having a partial estate, see 8 & 9 Vict. c. 18, s. 73 ; Dan. Pr. 2151 ; 2 Seton, 1421, 1422 ; Morgan, 33, 34. For forms of orders, see 2 Seton, 1420, Nos. 4—6. As to the application of purchase-money paid into Court in respect of a lease, or other estate less than the fee, or of a reversion, see 8 & 9 Vict. c. 18, s. 74 ; Dan. Pr. 2151—2153 ; 2 Seton, 1436—1438 ; Morgan, 34. For forms of orders, see 2 Seton, 1434, 1435, Nos. 1—3. As to the application of purchase-money paid into Court under s. 76, see 8 & 9 Vict. c. 18, s. 78 ; Dan. Pr. 2154, 2155 ; Morgan, 36, 37. As to the application of a deposit made under s. 85, see 8 & 9 Vict. c. 18, s. 87 ; Dan. Pr. 2168, 2169 ; 2 Seton, 1439, 1440 ; Morgan, 46, 47. For forms of order, see 2 Seton, 1438, 1439, Nos. 1—4. As to costs, see 8 & 9 Vict. c. 18. s. 80 ; Dan. Pr. 2156—2168 ; 2 Seton, 1441—1447 ; Morgan & Wurtzburg, 282—310, 811, 817 ; *Re Lee & Hemingway*, 24 Ch. D. 669 : 32 W. R. 226. For forms of order, see 2 Seton, 1441, 1442, Nos. 1—4.

Or, that upon the due execution, *&c.*, the funds in Court may be dealt with as directed in the schedule hereto (*t*).

That pursuant to the 80th section of the Lands Clauses Consolidation Act, 1845 (*u*), the —— Company may be ordered to pay to the applicant his costs, as thereby provided for: including therein all reasonable charges and expenses of and incident to the said investment in the purchase of the said hereditaments, and of this application, and of all proceedings relating thereto [*or as may be*]: such costs, charges, and expenses to be taxed by the Taxing Master, in case the parties differ (*v*).

2095. Summons for payment out to person absolutely entitled (*w*). [Dan. Pr. 2143.]

(*Title as in* Form 2093; *other formal parts as in* Form 43, *or* 1077 *or* 1078.)

on the part of E. F., of, *&c.*, that the sums of £—— consolidated £3 per cent. annuities, and £—— cash, in Court to the credit of the (*State what, as in the Paymaster's certificate of fund*), may be transferred and paid to the applicant E. F.

Or, if the summons is framed with a Pay Office schedule: that the funds in Court may be dealt with as directed in the schedule hereto (*x*).

And that (*Application for payment of costs by the Company, as in* Form 2093).

2096. Affidavit as to the title of an applicant (*y*). [Dan. Pr. 2147.]

Formal parts: see Form 6.

1. *State succinctly the interest of the applicant in the land taken; as thus:* The above-named A. B., by her last will dated ——, 188—, devised all her real estate whatsoever and wheresoever unto me this depo-

(*t*) The directions for sale of stock, payment of purchase-money, and payment of dividends will be contained in a payment schedule to the order: S. C. Funds Rules, 1884, rr. 10, 46.

(*u*) See note (*r*), *supra*,

(*v*) For forms of order for reinvestment in land, see 2 Seton, 1427—1429, Nos. 1—4. For practice on investment in purchase of real estate, see Forms 1198—1217.

(*w*) See 8 & 9 Vict. c. 18, s. 69; 2 Seton, 1433—1434. For form of order, see 2 Seton, 1433, No. 1. The application will be made by originating summons (if there has been no previous application to the Court since the fund was paid in,) in cases where the cash to be paid out does not exceed 1000*l.*, or the securities to be transferred do not exceed 1000*l.* nominal value; in other cases the application must be made by petition, see R. S. C. Ord. LV. 2 (2); *Re Maidstone and Ashford Railway Co.*, and *Re Bala and Festiniog Railway Co.*, 25 Ch. D. 168: 32 W. R. 181; *Re Madgwick*, 25 Ch. D. 371: 32 W. R. 512; *Re Calton's Will*, 25 Ch. D. 240: 32 W. R. 167. Where there has been in effect an order declaring rights, R. S. C. Ord. LV. 2 (1), applies, even if the fund sought to be paid out exceeds 1000*l.*: *In re Brandram*, 25 Ch. D. 366: 32 W. R. 180.

(*x*) The directions for payment and transfer will be contained in a payment schedule to the order: see S. C. Funds Rules, 1884, rr. 10, 46.

(*y*) In addition to the affidavit in support of the summons, it is the practice in some Chambers, where the title is complicated, to require a short statement to be left, showing concisely the chain of title.

nent for my life; and after my decease to all my sons who should be living at the time of my death, as tenants in common in fee.

2. The said testatrix died on, *&c.*, without having altered or revoked her said will; and E. F., the sole executor thereof, duly proved such will in the Principal Registry of the Probate Division of this Court on, *&c.*

State how the settled land has been taken under a Parliamentary power; as thus: 3. By the M. Railway Act, 1866: which incorporated the Lands Clauses Consolidation Act, 1845: the M. Railway Company were authorised to make the railway therein mentioned.

4. The said Company, in exercise of the powers vested in them by the said Acts, or one of them, gave notice to me that they required, for the purposes of their said undertaking, certain lands situate at, *&c.*, forming part of the real estate so devised to me for my life as aforesaid; and that the said Company desired to treat for the purchase thereof.

5. I not being able to agree with the said Company as to the amount to be paid as the purchase-money or compensation for the said lands, the sum of £—— was duly settled and determined by arbitration to be the amount thereof.

State the payment into Court; as thus: 6. On the ——, 188—, the said Company paid the said sum of £—— into Court to the credit of (*State the title of the account correctly, from the Paymaster-General's certificate*): which sum is now standing to the like credit.

State the conveyance to the Company, if executed, or other ground for the application; as thus: 7. By an indenture dated, *&c.*, and made between myself of the one part, and the said M. R. Company of the other part, I conveyed the said lands to the said Company, their successors and assigns.

Negative other rights, &c.: as thus: 8. I am not aware of any right in any other person than myself, or of any claim made by any other person than myself, to the said sum of £—— cash [*or other sum proposed to be dealt with*], or to any part thereof [*or, if the deponent is aware of any such right or claim, state or refer to, and except the same*] (*z*).

2097.

Summons for the appointment of a special guardian of an infant to convey or release land, or to appoint trustees to receive purchase money or compensation (*a*). [Dan. Pr. 2150.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*b*).)

In the matter of A. B., an infant, by C. D., his next friend.
And in the matter of the (*Title of the Special Act*).
And in the matter of the Lands Clauses Consolidation Act, 1845.

Let (*&c.: Continue as in* Form 1078, *to* noon), on the hearing of an application on the part of the above-named infant A. B., by the above-

(*z*) See R. S. C. Ord. LII. 18; *In re Byron's Charity*, W. N. (1883), 67: 31 W. R. 517.

(*a*) See 8 & 9 Vict. c. 18, ss. 7, 71; Dan. Pr. 2150. The application is made by an originating summons.

(*b*) See R. S. C. Ord. V. 9 (*b*).

named C. D., of (*residence and addition*), his next friend: that the said C. D., or some other proper person, may be appointed the special guardian of the said A. B., for (*State what; as thus:*

the purpose of selling and conveying or releasing to the —— Company, pursuant to the seventh section of the Lands Clauses Consolidation Act, 1845, certain lands situate at ——, which the said A. B. is seised or possessed of, or entitled to [*or*, has an estate or interest in]; and which lands are required by the said company for the purposes of their above-mentioned Act.

Or, the purpose of nominating, under the seventy-first section of the Lands Clauses Consolidation Act, 1845, two trustees to receive the purchase-money or compensation payable by the —— Company, for certain lands situate at (*&c.: as above*)).

Dated (*&c.: Conclude as in* Form 1078).

2098. Petition of course for taxation of a bill of costs, under sec. 83 (*c*). [Dan. Pr. 2166.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge* (*cc*).)

In the matter of (*Set out title of the Special Act; as thus:* the Tooting, Merton, and Wimbledon Extension Railway Act, 1864).

And in the matter of the Lands Clauses Consolidation Act, 1845.

To Her Majesty's High Court of Justice:

The humble petition of the London and South Western Railway Company [*or as may be*].

Showeth as follows:

1. Your petitioners, under the powers vested in them by the Acts of Parliament above-mentioned, have purchased certain lands in the county of S., of S. M., of (*residence and addition*), for the purposes of their said railway [*or as may be*].

2. Under the provisions of the last-mentioned Act your petitioners are liable to pay to the said S. M. his costs of, and incident to, the conveyance of such lands to your petitioners.

3. The said S. M. has delivered to your petitioners his bill of costs.

4. Your petitioners and the said S. M. cannot agree as to the amount of the said bill of costs; and your petitioners are therefore desirous of having the same taxed, under the provisions of the said last-mentioned Act.

Your petitioners therefore humbly pray, that it may be referred to the proper Taxing Master to tax and settle the said bill: with all usual directions.

(*c*) As to the costs of conveyances and taxation thereof, see 8 & 9 Vict. c. 18, ss. 82, 83; 2 Seton, 1448, 1449; Morgan, 45, 46; Morgan & Wurtzburg, 310, 311. For form of order, see 2 Seton, 1448, No. 1. The form in the text can readily be adapted to a case where the party entitled to the costs petitions for the taxation.

(*cc*) See R. S. C. Ord. V. 9 (*d*).

Section VII.—The Railways Construction Facilities Act, 1864 (*d*).

(*Dan. Pr.*, pp. 2171—2173.)

(*d*) See 27 & 28 Vict. c. 121. Any application to the Court under the above Act is to be made in a summary way in such manner as General Orders of the Court shall direct, *Ibid.*, s. 46. No such General Orders have been issued: Dan. Pr. 2173.

Section VIII.—The Railway Companies Act, 1867 (*e*).

(*Dan. Pr.*, pp. 2174—2188.)

2099.

Petition for the appointment of a receiver and manager (*f*). [Dan. Pr. 2175.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge* (*g*).)

In the matter of the Beddgelert Railway Company; and in the matter of the Railway Companies Act, 1867 (*h*).

To Her Majesty's High Court of Justice.

The humble petition of R. M. O., of (*residence and addition*), and W. H. L., of, *&c.*

Showeth as follows:

1. The Beddgelert Railway Company is a railway company duly incorporated by an Act of Parliament made and passed in the session of Parliament holden in the 28th and 29th years of the reign of Her present Majesty, cap. cccxxii., intituled An Act for (*Setting out title of the Act*).

2—5. (*Statements as to the capital and powers of the Company.*)

6. The said company proceeded to construct the said railways and works authorised by the said Acts; and the same have been partially completed; and a portion of the said railways has been entirely completed, and has been opened, and is now open, for traffic.

7. The petitioners, on the —— day of ——, 18—, obtained a judgment against the said railway company for the sum of £—— for debt, and £—— for costs, in the (Queen's Bench) Division of this Court, in respect of a debt which became due to them from the company since the passing of the Railway Companies Act, 1867; and such judgment is still in force and unsatisfied.

(*e*) See 30 & 31 Vict. c. 127; 38 & 39 Vict. c. 31; Gen. Ord. in Chan. 24 Jan. 1868 (L. R. 3 Ch. xlii.); 2 Seton, 1451—1454; Morgan, 167—177.

(*f*) See *Re Beddgelert Railway Co.:* Presented 25 May, 1870; and filed 8 June, 1870. As to petitions for the appointment of a receiver and manager, see the 30 & 31 Vict. c. 127, s. 4; Dan. Pr. 2175. For forms of order, see *Re Beddgelert Railway Co.*, V.-C. S., 3 June, 1870, Reg. Lib. A. 1314; *Re Stafford and Uttoxeter Railway*, W. N. (1868), 113; 1 Seton, 422, Nos. 30, 31. As to the form of the order on petition, see Ord. 24 Jan. 1868, r. 31; Dan. Pr. 2176; 1 Seton, 435.

(*g*) See R. S. C. Ord. V. 9 (*d*).

(*h*) See Ord. 24 Jan. 1868, r. 29; Dan. Pr. 2175.

8. The petitioners are desirous that a receiver and manager of the undertaking of the company should be appointed.

Your petitioners therefore humbly pray :

1. That a receiver and manager of the undertaking of the Beddgelert Railway Company may be appointed by this Court ; and that out of the moneys which may come to the hands of such receiver, and properly applicable for that purpose, the amount due to the petitioners by virtue of the said judgment may be paid to them.

2. That for the purposes aforesaid all proper directions may be given, accounts taken, and inquiries made.

3. That the said railway company may pay to the petitioners the costs of this application and consequent thereon.

Or that (*&c.: Concluding as in* Form 40).

NOTE.—It is intended to serve this petition on the Beddgelert Railway Company (*i*).

2100. Summons for determination of question respecting an execution (*j*). [Dan. Pr. 2176.]

Formal parts : see Form 43 *or* 1077.

Set out the title of the cause or matter in which the execution in question was issued ; and add :

And in the matter of the Railway Companies Act, 1867 (*k*).

Let (*&c.: Proceed as in* Form 1077, *to* noon), on the hearing of an application on the part of the above-named plaintiff A. B. :

Or, of the above-named defendants the —— Company—*or as may be :*

that (*State the question which has arisen, and is to be submitted for the determination of the Judge, as to whether property of the company taken in execution is liable to be so taken notwithstanding the Act*).

Dated (*&c.: Conclude as in* Form 1077).

2101. Formal parts of a Scheme of Arrangement (*l*). [Dan. Pr. 2177.]

(*Title as in* Form 2099 (*m*).)

Scheme of Arrangement between the above-named —— Company and their creditors.

1. }
2. } (*Set out, in numbered paragraphs, the statements of the scheme, leading up to the proposal.*)
3. }

(*i*) See Ord. 24 Jan. 1868, r. 30 ; Dan. Pr. 2175.

(*j*) See 30 & 31 Vict. c. 127, s. 5 ; Ord. 24 Jan. 1868, r. 32 ; Dan. Pr. 2176.

(*k*) As to the title of the summons, see Ord. 24 Jan. 1868, r. 32 ; Dan. Pr. 2176.

(*l*) See 30 & 31 Vict. c. 127, s. 6. For form of a scheme *in extenso*, see *Re Bristol and North Somerset Railway Co.*, 6 Eq. 448—451, V.-C. G. As to printing the scheme, and as to filing, in the first instance, a written scheme, see Ord. 24 Jan. 1868, rr. 3, 7, 8 ; Dan. Pr. 2177. As to the printing of proceedings in general, see R. S. C. Ord. LXVI. 2, 3. The scheme, together with the declaration of inability, and affidavit of its truth (see Forms 2102, 2103) annexed thereto, must be filed in the Central Office : Ord. 24 Jan. 1868, r. 5 ; Dan. Pr. 2178. As to filing a new scheme, see Dan. Pr. 2186. On filing the scheme a fee of 20*s.* is payable : by a stamp impressed thereon : Ord. as to S. C. Fees, 1884, Sched. No. 30 ; Ord. as to Fees, July, 1884, p. 6.

(*m*) As to the title, see Ord. 24 Jan. 1868, r. 1.

The said company propose, as a scheme of arrangement between the said company and their creditors, the following terms; that is to say:

1. That, *&c.*
2. That, *&c.*

Sealed with the common seal of the —— Company, this —— day of ——, 188—.

Seal.

2102.

Declaration as to inability of company to meet engagements (*mm*). [Dan. Pr. 2177.]

(*Title as in* Form 2099 (*n*).)

By virtue of, and in accordance with, the above-mentioned Act, we, the —— railway company, do hereby declare that we are unable to meet our engagements with our creditors.

Sealed with our common seal this —— day of ——, 188—.

Sealed by order of the Board of Directors of the said company.

Seal.

A. B.,
Secretary [*or as may be*].

2103.

Affidavit of the truth of the declaration (*o*). [Dan. Pr. 2177.]

(*Title: as in* Form 2099 (*n*).)

I, A. B., of (*residence and addition*): being the acting chairman for the time being of the board of directors of the above-named railway company: and we, C. D., of, *&c.*, E. F., of, *&c.*, and G. H., of, *&c.*, being the [major part in number of the] directors of the said company: severally make oath and say, as follows:

1. We have read a declaration made in this matter by the above-named company, and dated the —— day of ——, 188—, which states that the said company are unable to meet their engagements with their creditors.

2. From our knowledge of the state of affairs of the said company we say that the said declaration is, to the best of our respective judgment

(*mm*) See 30 & 31 Vict. c. 127, s. 6. Form 2102 was used in the cases of *Re Mold and Denbigh Junction Railway Co.* (1868, M. No. 66); *Re Mid Wales Railway Co.* (1868, M. No. 17); and *Re Mid Hants Railway Co.* (1868, M. No. 141); but the attestation was used in the latter case only. The declaration, and also the affidavit of its truth (see Form 2103), must be written bookwise upon paper of the same size and description as that on which proceedings are printed; and be annexed to the scheme, and filed at the same time therewith: Ord. 24 Jan. 1868, rr. 4, 5; Dan. Pr. 2177, 2178. As to such paper, see R. S. C. Ord. LXVI. 2.

(*n*) As to the title, see Ord. 24 Jan. 1868, r. 1.

(*o*) See 30 & 31 Vict. c. 127, s. 6. The affidavit must be made by the chairman, and by the other directors, or the major part in number of them. Form 2103 was used in the cases of *Re Mid Wales Railway Co.*, and *Re Mold and Denbigh Junction Railway Co.*: note (*mm*), *supra*. As to the paper on which the affidavit must be written, and as to filing it with the scheme, see *Ibid.*

and belief, true; and that the said company are unable to meet their engagements with their creditors.

Sworn (*&c.: as in* Form 10).

2104. Indorsement on the scheme (*p*). [Dan. Pr. 2178.]

(*Title: as in* Form 2099.)

(*Name and address of the solicitor, and London agent (if any), of the company; and also the address for service of such solicitor, in cases where an address for service is required by the Rules of the Supreme Court: see* Form 3.)

2105. Certificate that copy of written scheme is correct (*q*). [Dan. Pr. 2178.]

I hereby certify the above to be correct and proper to be printed.

X. Y.

(*Add style of office.*)

2106. Certificate verifying printed copy (*r*). [Dan. Pr. 2178.]

I hereby certify that this print is a true copy of the scheme of arrangement certified by the proper officer as correct and proper to be printed.

A. B.

Solicitor of the above- [*or*, within-] named —— company.

2107. Certificate of filing of scheme (*s*). [Dan. Pr. 2179.]

(*Short title and reference to the record.*)

These are to certify that [a printed copy of] the scheme of arrangement in this matter was regularly filed on the —— day of ——, 188—.

2108. Advertisement of scheme (*t*). [Dan. Pr. 2179.]

In the matter of the —— Railway Company; and

In the matter of the Railway Companies Act, 1867.

Notice is hereby given, that on the —— day of ——, 188—, a scheme of arrangement between the above-named company and their creditors (*State here whether the scheme contains or not any provisions for settling the rights of any and what classes of shareholders as among themselves, or for raising additional share or loan capital: and which, and to what extent*) was filed in the Central Office of the Supreme Court;

(*p*) See Ord. 24 Jan. 1868, r. 6.

(*q*) *Ibid.*, r. 7. Where a written, instead of a printed, scheme is filed (see *supra*, note (*l*)), a fair copy of it must, at the time of filing, be left at the Central Office, for examination and certificate, see *Ibid.*

(*r*) See Ord. 24 Jan. 1868, r. 8.

(*s*) *Ibid.*, r. 13. As to the fee payable on filing the scheme, see note (*l*), *supra*.

(*t*) See Ord. 24 Jan. 1868, r. 10; and Sched. 3, No. 1. As to advertising the scheme, see 30 & 31 Vict. c. 127, s. 8; Ord. 24 Jan. 1868, r. 12.

and a copy of the said scheme will be furnished to any person requiring the same by the undersigned, or at the office of the company, at ——, on payment of the regulated charges for the same.

A. and B., of (*address*),
[Agents for C. and D., of (*address*)],
Solicitors for the Company (*u*).

2109.

Demand of copies of scheme (*v*). [Dan. Pr. 2178.]

(*Short title and reference to the record.*)

I request to be furnished with (ten) copies of the scheme of arrangement in this matter.

Dated (*&c.: Conclude as in* Form 37.)

2110.

Certificate verifying the copies (*w*). [Dan. Pr. 2179.]

I hereby certify that this print is a true copy of the scheme of arrangement filed in this matter.

A. B.
Solicitor of the above-named ——
Company.

2111.

Notice of motion or summons to stay proceedings in an action against company after scheme filed (*x*). [Dan. Pr. 2179.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of the defendants, the above-named —— Railway Company, that: a scheme of arrangement between the said company and their creditors having been, on the —— day of ——, 188—, filed in the Central Office of the Supreme Court: all further proceedings in this action may be stayed as against the said company, on such terms as the Court may think fit.

2112.

Notice of motion or summons for leave to issue execution, &c., against company, notwithstanding scheme (*y*). [Dan. Pr. 2179, 2180.]

Formal parts: see Form 38, *or* 43 *or* 1077.

on the part of C. D., of (*residence and addition*), that, notwithstanding the scheme of arrangement of the above-named company, filed in this matter on the —— day of ——, 188—, the applicant may be at liberty

(*u*) The notice must be signed by the solicitor of the company, or his London agent; and must set forth the name and address of such solicitor, and London agent (if any): Ord. 24 Jan. 1868, r. 12.

(*v*) See Ord. 24 Jan. 1868, r. 10. The requisition in writing for the copies is to be delivered at the principal office of the company, or at the office of their solicitor, or of his London agent (if any), *Ibid.* The sum of one halfpenny per folio is to be paid for every copy of the scheme, *Ibid.*, r. 11.

(*w*) See Ord. 24 Jan. 1868, r. 10.

(*x*) See 30 & 31 Vict. c. 127, s. 7: Sup. Cot. Jud. Act, 1873 (36 & 37 Vict. c. 66), s. 24 (5). The application should be made in the Division in which the action is pending. As to the terms to be imposed, see Ord. 24 Jan. 1868, r. 14.

(*y*) See 30 & 31 Vict. c. 127, s. 9.

to issue execution against the property of the said company, on the judgment recovered by him in an action against the said company in the —— Division of this Court.

2113. Petition to confirm scheme (*z*). [Dan. Pr. 2181.]

(*Title: as in* Form 2099.)

To Her Majesty's High Court of Justice.

The humble petition of A. B., C. D., *&c.*, directors of the above-named company.

Showeth:

That on the —— day of ——, 188—, the directors of the above-named company filed in the Central Office of the Supreme Court a scheme of arrangement between the above-named company and their creditors.

Your petitioners therefore humbly pray, that the scheme so filed as aforesaid may be confirmed by the order of this Court.

And your petitioners will ever pray, *&c.*

2114. Summons for a day to be appointed for hearing the petition (*a*). [Dan. Pr. 2181.]

Formal parts: see Form 43 *or* 1077.

on the part of A. B., C. D., *&c.*, directors of the above-named company, that a day may be appointed on which their petition presented in this matter on the —— day of ——, 188—, is to come into the paper for hearing.

2115. Advertisement of the petition (*b*). [Dan. Pr. 2181.]

(*Title: as in* Form 2099.)

Notice is hereby given that a petition was, on the —— day of ——, 188—, presented to Her Majesty's High Court of Justice by the directors of the above-named company, praying the confirmation of a scheme of arrangement between the said company and their creditors, filed in the Central Office of the Supreme Court of Judicature on the —— day of ——, 188—; and that the said petition is directed to be heard before Mr. Justice —— on the —— day of ——, 188—. And any person whose interests are affected by such scheme, and who may be desirous to oppose the making an order for the confirmation thereof under the above Act, should enter an appearance at the Central Office on or before the —— day of ——, 188—, and appear by himself or counsel at the hearing of the said petition. And a copy of the scheme and petition

(*z*) See 30 & 31 Vict. c. 127, s. 16; Ord. 24 Jan. 1868, rr. 15, 16, and Sched. 3, No. 2. For form of order confirming a scheme, see 2 Seton, 1451, No. 1. As to assents to a scheme, see 30 & 31 Vict. c. 127, ss. 10—15; Dan. Pr. 2180, 2181.

(*a*) See Ord. 24 Jan. 1868, rr. 17, 18.

(*b*) *Ibid.*, and Sched. 3, No. 3. As to the papers in which the notice is to be advertised, see Dan. Pr. 2181.

will be furnished to any person requiring the same by the undersigned, or at the office of the company at ——, on payment of the regulated charge for the same.

A. and B., of (*Address*),
[Agents for C. and D., of (*Address*)],
Solicitors for the Petitioners.

2116.

Præcipe for appearance by opponent of scheme (*c*). [Dan. Pr. 2112.]

(*Title and reference to the record.*)

Enter an appearance for G. H., of (*residence and addition*), to the scheme of arrangement filed in this matter.

Dated this —— day of ——, 188—.

(*Name &c., of solicitor or party entering the appearance.*)

2117.

Notice of appearance. [Dan. Pr. 2182.]

Formal parts: see Form 37.

Take notice that I have this day entered an appearance for G. H., of (*residence and addition*), to the scheme of arrangement filed in this matter.

2118.

Notice of order confirming a scheme (*d*). [Dan. Pr. 2183.]

(*Title: as in* Form 2099; *other formal parts: see* Form 37.)

Notice is hereby given that the petition which was on the —— day of ——, 188—, presented to Her Majesty's High Court of Justice by the directors of the above-named company, praying that the scheme of arrangement between the said company and their creditors, filed in the Central Office of the Supreme Court of Judicature on the —— day of ——, 188—, might be confirmed, came on to be heard before Mr. Justice —— on —— the —— day of ——, 188—; and by an order then made by the said Judge it was ordered that the said scheme be confirmed (*e*).

2119.

Notice of motion for leave to appeal from order confirming scheme (*f*).

(*Same as* Form 1451.)

(*c*) See Ord. 24 Jan. 1868, rr. 19, 20.

(*d*) See 30 & 31 Vict. c. 127, s. 19. As to the time allowed, and the papers in which, to advertise the notice, see Dan. Pr. 2183; R. S. C. Ord. LXI. 11. The scheme is enrolled in the Enrolment Department of the Central Office: R. S. C. Ord. LXI. 10. Rules 21—28 of Ord. 24 Jan. 1868, were annulled by R. S. C. April, 1880, r. 61. It seems, therefore, that no order confirming a scheme now requires enrolment.

(*e*) State, correctly, the purport of the order made.

(*f*) For form of order staying enrolment pending an appeal, see 2 Seton, 1451, No. 2.

2120. Notice of the confirmation and enrolment of the scheme (*g*). [Dan. Pr. 2183.]

Proceed as in Form 2118, *to the end of the statement of the order confirming the scheme; and continue thus:* And notice is hereby also given, that the said scheme was enrolled in the Enrolment Department of the Central Office of the Supreme Court of Judicature on the —— day of ——, 188—.

Section IX.—Statutes relating to Arbitration (*h*).

(*Dan. Pr.*, pp. 2188—2195, ccccxxv., ccccxxvi.)

(*h*) *Arbitration.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Saving of procedure under C. L. P. Acts.—None of the provisions of R. S. C. Ord. XXXVI. are to affect any of the provisions of the Common Law Procedure Acts relating to arbitration	XXXVI. 10.
No rule nisi, &c.—No motion or application for a rule *nisi* or order to show cause is hereafter to be made to set aside, remit or enforce an award	LII. 2.
Grounds and practice of notice of motion to be stated.—Every notice of motion to set aside, remit or enforce an award must state in general terms the grounds of the application; and where such motion is founded on affidavit evidence, a copy of any affidavit intended to be used must be served with the notice of motion	,, 4.
Filing submission or award.—No order to make a submission to arbitration, or an award, an order of the Court, can be passed, until the original submission or award has been filed in the Central Office, or in the District Registry, and a note thereof made on the order by the proper officer	LXI. 15.
All submissions to arbitration and awards made orders of the Court, must be transmitted to the Central Office, to be there filed. Office copies are to be ready for delivery within forty-eight hours after bespeaking	,, 31.
Time for application to set aside award.—Such application may be made at any time before the last day of the sittings next after such award has been made and published to the parties .	LXIV. 14.
Taxation of costs.—Costs on an award may be taxed notwithstanding the time for setting it aside has not elapsed . .	LXV. 15.

See 9 & 10 Will. III. c. 15; 3 & 4 Will. IV. c. 42; The Common Law Procedure Act, 1854 (17 & 18 Vict. c. 125), ss. 3—17. The old practice is not repealed by, but exists alongside of, the new practice introduced by the Supreme Court of Judicature Act, 1873 (36 & 37 Vict. c. 66), ss. 56—59: *Cruikshank* v. *Floating Baths Co.* 1 C. P. D. 260; *per* Brett, L.J., in *Longman* v. *East*, 3 C. P. D. 142, at pp. 152, 153.

By the Supreme Court of Judicature Act, 1884 (47 & 48 Vict. c. 61), s. 10, in all cases in which the Court or Judge may, under ss. 3, 6, or 12 of the C. L. P. Act, 1854, direct any matter to be ascertained by a Master or referred to an arbitrator, or to an officer of the Court, or appoint an arbitrator, such Court or Judge may direct such matter to be ascertained by or referred to an Official Referee: who is in such case to perform all such duties, and exercise all such powers, as would have been performed, or could have been exercised, by such Master, arbitrator, or officer. By s. 11, whenever the parties to any deed or instrument in writing, made or executed after the 24th Oct. 1884 (see s. 2), or any of them, shall agree that any existing or future difference between them, or any of them, shall be referred to an Official Referee, it shall be the duty of such Official Referee to hear and determine any difference so agreed to be referred; and every such agreement

(*g*) See 30 & 31 Vict. c. 127, s. 19. The notice is to be published in the London Gazette, *Ibid.*

is to be deemed an agreement to refer to arbitration within the meaning of ss. 11 and 17 of the C. L. P. Act, 1854.

As to arbitrations, see 1 Seton, 399—409; Wilson, 340—345; 2 Chitty's Arch. 1306—1381; Russell on Arbitration; Ann. Pr. 50—86. For forms of submission to arbitration, see Chitty's Forms, 827—862.

2121.

Notice of motion to make agreement to refer an order of the Court (*i*). [Dan. Pr. 2189, 2190.]

In the High Court of Justice, 188—, B. N.
Chancery Division.
(*Name of Judge* (*j*).)
In the matter of an arbitration between A. B. and C. D.
And in the matter of the Common Law Procedure Act, 1854.

Other formal parts: see Form 38.

on the part of A. B., of (*residence and addition*), that the submission to arbitration contained in (*Describe the document, as thus:* an indenture dated the —— day of ——, 188—, and made between the said A. B. of the one part, and C. D., of (*residence and addition*), of the other part), may be made an order of this Court: to be observed and performed by all parties thereto, according to the tenor and true meaning thereof (*k*).

2122.

Affidavit verifying signatures to the submission (*l*). [Dan. Pr. 2190.]

Title as in Form 2121; *other formal parts as in* Form 6.

1. On the —— day of ——, 188—, I saw A. B. and C. D., the parties to the parchment [*or*, paper] writing dated the —— day of ——, 188—, now produced and shown to me, and marked F. (*m*), and purporting to be a submission of certain matters to arbitration, duly sign, seal, and as their respective acts and deeds deliver [*or, if not under seal, say:* duly sign] the said exhibited document.

2. The names or signatures "——" and "——," respectively set and subscribed to the said parchment [*or*, paper], writing, are of the proper handwriting of the said A. B. and C. D. respectively.

3. The name or signature "——," set and subscribed to the attestation of the signatures of the said A. B. and C. D., indorsed on [*or*, written under] the said parchment [*or*, paper] writing, is of my proper handwriting.

2123.

Notice of motion or summons to refer an action to two arbitrators or their umpire (*n*). [Dan. Pr. 2191.]

Formal parts: see Form 38, *or* 43, *or* 1077.

on the part of the plaintiff [*or as may be*], that, by consent, this action [*If so, add:* and all matters in difference between the parties thereto] may be referred to the arbitrament and final determination of S. Y., of, *&c.*, a person for this purpose nominated by the plaintiff, and of T. Z., of, *&c.*, a person for this purpose nominated by the defendant, or, in

(*i*) See 9 & 10 Wm. III. c. 15, s. 1; 17 & 18 Vict. c. 125, s. 17; 1 Seton, 408. For forms of orders, see 1 Seton, 401, Nos. 6, 7.

(*j*) See R. S. C. Ord. V. 9 (*c*).

(*k*) As to an *ex parte* application, see *Re Oglesby*, W. N. (1879), 151.

(*l*) This affidavit is not necessary if the application is consented to: Dan. Pr. 2190.

(*m*) For form of memorandum of exhibit, see Form 28.

(*n*) For form of order, see 1 Seton, 399, No. 2. For form of order of reference to a single arbitrator, *Ibid.*, No. 1.

case of the said S. Y. and T. Z. not agreeing to an award, then to the arbitrament and final determination of such umpire as shall be appointed by them, the said S. Y. and T. Z., in the manner hereinafter mentioned. And that such arbitration may be upon the terms following; namely:

1. That the said arbitrators make their award in writing on or before the —— day of ——, 188—, or on or before such further day as they, the said arbitrators, shall, from time to time, by any writing under their hands, appoint.
2. That, in case of the said arbitrators not agreeing in an award, the said umpire do make his award in writing within the period hereinafter mentioned, that is to say, within three calendar months after the time during which it is within the power of the said arbitrators shall have ceased; or within such extended time after the expiration of the said period of three calendar months as the said umpire shall, from time to time, by any writing under his hand, appoint.
3. That all deeds, books, and papers in the custody or power of any of the parties, relating to the matters in question, be produced before the said arbitrators and umpire, as the said arbitrators or umpire, respectively, shall direct: to be ascertained by the oaths of the respective parties producing the same.
4. That the parties and their witnesses: being first sworn: be examined as the said arbitrators or umpire, respectively, shall direct.
5. That the costs of this action, and of this application, and of the reference hereby directed, be in the discretion of the said arbitrators and umpire, or of such of them as shall award upon the matters in difference.
6. That no action or other proceeding be brought or taken by any of the parties hereto against the said arbitrators and umpire, or any of them, for any matter or thing they, or any of them, shall do in, about, or touching any of the matters hereby referred to them.
7. That before the said arbitrators enter upon the matters hereby referred to them, they do, by writing under their hands, appoint some person, approved of by them, to be such umpire as aforesaid; and that such umpire do, by writing under his hand, signify his acceptance of such appointment.

2124. Notice of motion or summons to revoke appointment of sole arbitrator (*p*). [Dan. Pr. 2192.]

Title: see Form 2121; *other formal parts: see* Form 38, *or* 1077, *or* 1078 (*o*).

on the part of the above-named C. D., that the appointment by the

(*o*) If the reference was directed in a pending action, the application should be made by an ordinary summons; in other cases it must be made by an originating summons.

(*p*) For the following forms, see Dan. Forms, 3rd ed.:—Appointment of arbitrator, where no person named in submission (Form 1925); notice of such appointment (Form 1926); appointment of umpire or third arbitrator (Form 1927); notice to appoint arbitrator (Form 1928); appointment of sole arbitrator (Form 1930); summons to extend time for appointment of an arbitrator (Form 1929). For form of order extending the time, see 1 Seton, 400, No. 4.

above-named A. B. of X. Y. to act as sole arbitrator, to whom all matters in difference [*or as may be*] between the said A. B. and C. D. shall be referred in pursuance of the submission between them [*or*, of the order] dated the ——, 188—, may be revoked. And that the said matters in difference may be referred to the said X. Y., jointly with T. Z., of (*residence and addition*), as the arbitrators of the said A. B. and C. D. respectively.

2125.

Summons to appoint an arbitrator, umpire or third arbitrator under C. L. P. Act, 1854, s. 12 (*q*). [Dan. Pr. 2192.]

Title: see Form 2121; *other formal parts:* see Form 43, *or* 1077, *or* 1078.

on the part of the above-named A. B., that X. Y., of (*residence and addition*), may be appointed to act as arbitrator [*or*, umpire; *or*, third arbitrator] under the submission to arbitration dated the —— day of ——, 188—, and made between the above-named A. B. and C. D.

If so, add: the said X. Y. to act in the place of T. Z., who has died [*or as may be*].

2126.

Motion paper for order for attendance of witnesses (*r*). [Dan. Pr. 752.]

Formal parts: see Form 36.

To move on behalf of the above-named A. B. [*or as may be*], that G. H., of, *&c.*, I. K., of, *&c.*, and L. M., of, *&c.*, may be ordered to attend before X. Y., esquire, the arbitrator herein, on —— day, the —— day of ——, 188—, and —— day, the —— day of ——, at —— of the clock in the forenoon of each of the same days, at (*State where*), and then and there to submit to be examined upon oath, affirmation or declaration on the part and behalf of the said A. B.

If it is desired that any witness should produce documents, add: And that the said G. H. may be ordered to bring with him and produce at the times and places aforesaid the following documents, that is to say: (*Here specify the documents, as in a subpœna duces tecum* (*s*)).

(*q*) See C. L. P. Act, 1854 (17 & 18 Vict. c. 125), s. 12. As to when the application should be by originating summons, see note (*o*), *supra*. For form of order, see 1 Seton, 401, No. 5. For form of notice to concur, see Dan. Forms, 3rd ed. Form 1932.

(*r*) See 3 & 4 Wm. IV, c. 42, s. 40. The application must set forth the county where the witness is residing at the time, *Ibid.*; and no witness can be compelled to attend at more than two consecutive days to be named in the order, *Ibid.*; nor to produce any document which he would not be compelled to produce at a trial, *Ibid.* Every witness is entitled to conduct money, and payment of expenses, and for loss of time, as for attendance upon a trial, *Ibid.* The application for the order is by motion or petition of course: *Re Ricketts*, 3 N. R. 56: 9 L. T. (N. S.) 405. For order in like case on motion, see *Re Ricketts, ubi supra*; and see 1 Seton, 408, 409.

(*s*) As to the mode of describing the documents, see Form 751, and note thereto.

2127. Petition of course for the like (*t*).

Formal parts: see Form 39.

1. *State the submission to arbitration; as thus:* By an agreement in writing dated the —— day of ——, 188—, and made between the above-named A. B., of the one part, and the above-named C. D., of the other part, it was agreed that all disputes and matters in difference between the said A. B. and the said C. D. should be referred to the arbitrament and final determination of X. Y.; and that the submission to arbitration contained in the said agreement should be made an order of this Court.

2. The said X. Y. has duly taken upon himself the burthen of the said reference.

3. Your petitioner is advised that G. H., of, *&c.*, J. K., of, *&c.*, and L. M., of, *&c.*, are material and necessary witnesses for him touching the matters referred as aforesaid.

4. The said G. H. has in his possession or control the following documents relating to the matters referred as aforesaid, which your petitioner is advised it is material and necessary for his case should be produced before the said arbitrator, that is to say: (*Here specify the documents as in a subpœna duces tecum* (*tt*)].

Your petitioner therefore humbly prays, that the said G. H., J. K., and L. M. may be (*Continue as in* Form 2126 *to end, substituting* "your petitioner" *for* "the said A. B.,"; *and* "the said documents" *for the specification of the documents*).

2128. Oaths, affirmations, and declarations of witnesses examined before an arbitrator (*u*).

(*Same as* Forms 769 to 783, *substituting* "to me" *for* "to the Court, [*or*, to the Court and jury]" *and* "touching the matters in difference between A. B. and C. D., referred to me" *for* "touching the matters in question.")

2129. Summons to enlarge time for making award (*v*). [Dan. Pr. 2193.]

Formal parts: see Form 43, *or* 1077, *or* 1078.

on the part of the above-named A. B. [*or as may be*], of (*address and description*), that the time limited by the submission to arbitration contained in (*State what; as thus:* the agreement, dated the —— day of ——, 188—, and made between A. B. of the one part, and C. D. of the other part), for the arbitrators [*or*, umpire] to make and publish their [*or*, his] award in pursuance thereof, may be (further) enlarged to the —— day of ——, 188—, on the ground that (*State cause for enlargement*).

(*t*) See note (*r*), *supra*.

(*tt*) See note (*s*), *supra*.

(*u*) As to the authority of an arbitrator to administer an oath, see 3 & 4 Wm. IV. c. 42, s. 41; 14 & 15 Vict. c. 99, s. 16.

(*v*) An arbitrator or umpire has no power to enlarge the time for making the award, unless such power be conferred upon him by the submission; but the

2130.

Notice of motion to make award an order of Court (*x*). [Dan. Pr. 752.]

Formal parts; see Form 38.

on the part of the above-named A. B. [*or as may be*], that the award of E. F., the arbitrator [*or*, umpire] acting under the submission to arbitration contained in (*State what; as thus:* an agreement dated the —— day of ——, 188—, and made between A. B., of the one part, and C. D., of the other part), may be made an order of this Court, to be observed and performed by all parties thereto, according to the tenor and true meaning thereof.

2131.

Affidavit of publication of an award.

Formal parts: see Form 6.

1. On the —— day of ——, 188—, I saw E. F., of (*residence and addition*), sign and publish [*or*, sign, seal, and publish] his award in this matter dated the —— day of ——, 188—, and now produced and shown to me, and marked G. (*y*).

2. The name or signature "——," set and subscribed to the said award, as the party executing the same, is of the proper handwriting of the said E. F.

3. The name or signature "——," set and subscribed to the attestation, written at the foot of the said award, of the execution thereof by the said E. F., is of my proper handwriting.

2132.

Notice of motion to set aside an award (and judgment entered in pursuance thereof) (*z*). [Dan. Pr. 2191.]

Formal parts: see Form 38.

on the part of the above-named A. B. [*or as may be*], that the award of E. F. the arbitrator [*or*, umpire] acting under the submission to arbitration contained in (*State what; as in* Form 2130),

Where the reference was in an action, and judgment has been entered

parties to a submission may, by consent in writing, enlarge the term for making the award: C. L. P. Act, 1854 (17 & 18 Vict. c. 125), s. 15; or the Court of which the submission or order is or may be made an order, or any Judge thereof, may, for good cause to be stated in the order for enlargement, from time to time enlarge the term for making the award: C. L. P. Act, 1854 (17 & 18 Vict. c. 125), s. 15. If the application under the 15th section is made in an action, or in a pending matter, an ordinary summons will be sufficient; otherwise it must be made by an originating summons. For order in like case, see *Blagrave* v. *Blagrave*, V.-C. W. at Chambers, 30 June, 1865, Reg. Lib. A. 1328: on certificate of arbitrator that further time was needed.

(*x*) For form of order, see 1 Seton, 403, No. 11. For formal parts of an award, and form of notice of publication, see Dan. Forms, 3rd ed., Nos. 1942, 1943. For forms of awards, see Russell on Arbitration, 775—822.

(*y*) For form of memorandum of exhibit, see Form 28.

(*z*) As to setting aside an award, see Russ. Arb., pp. 647—695; 1 Seton, 404—406; R. S. C. Ord. LII. 4; and note (*h*), *supra*, at p. 925. As to the time for making the application, see R. S. C. Ord. LXIV. 14; and note (*h*), *supra*.

in the action, in accordance with the award (*a*), *add:* and also the judgment entered in this action on the —— day of ——, 188—, may be set aside on the following grounds, namely: (*State them*) (*b*).

2133.
Notice of motion to remit matters to arbitrator (*c*). [Dan. Pr. 2194.]

Formal parts: see Form 38.

on the part of the above-named A. B. [*or as may be*], that the matters referred to the arbitrament of X. Y., by the submission to arbitration contained in (*State what; as in* Form 2130), may be remitted to the reconsideration and redetermination of the said X. Y., to arbitrate upon the following matters referred to him, but not arbitrated upon or determined in his award, namely: (*Specify the matters not arbitrated upon or determined*), on the following grounds, namely: (*State in general terms the grounds of the application* (*b*)).

2134.
Another form (*d*). [Dan. Pr. 2194.]

Proceed as in Form 2133, *down to* remitted; *and continue thus:* to the said X. Y., to supply an accidental omission in one part of his award, of the words "taken in due form of law as aforesaid" and of the word "satisfy;" and for a direction therein that if one of the parties to the said reference should pay the whole of the fees and compensation of the third arbitrator, the other party should repay him a moiety thereof; and also for the re-execution of the said award.

2135.
Motion paper to set down award as a special case (*e*). [Dan. Pr. 2193.]

Formal parts: see Form 36.

To move on behalf of the above-named A. B. [*or as may be*], that the award, dated the —— day of ——, 188—, of X. Y., the arbitrator acting under the submission to arbitration contained in (*State what: as in* Form 2130), may be set down for hearing as a special case upon the questions thereby submitted for the opinion of this Court.

(*a*) Where an action has been referred to an arbitrator under the C. L. P. Act, 1854, judgment may be entered in accordance with the award, without motion for judgment: *Lloyd* v. *Lewis*, 2 Ex. D. 7.

(*b*) See R. S. C. Ord. LII. 4. A copy of any affidavit intended to be used must be served with the notice of motion, *Ibid.*

(*c*) See C. L. P. Act, 1854 (17 & 18 Vict. c. 125), s. 8; R. S. C. Ord. LII. 4; and note (*h*), *supra*, at p. 925.

(*d*) For order in like case, see *Re Walton Shore Road*, V.-C. S., 20 Dec. 1866, Reg. Lib. B. 2709; 15 W. R. 303: S. C. *sub nom.*, *Re Warner & Powell*, L. R. 3 Eq. 261.

(*e*) See C. L. P. Act, 1854 (17 & 18 Vict. c. 125), s. 5. For form of order see 1 Seton, 402, No. 10.

2136.
Memorandum on setting down award (*f*).

(*Short title and reference to the record.*)

Set down the award, dated the —— day of ——, 188—, of Mr. X. Y., the arbitrator in this action, for hearing as a special case.

Dated —— day of ——, 188—.

(*Name and address of solicitor or party setting down.*)

2137.
Notice of setting down.

Formal parts : see Form 37.

Take notice that I have this day set down (*Continue as in* Form 2136, *to the end*).

Section X.—Act for Production of Cestui que vie (*g*).

(*Dan. Pr.*, pp. 2195—2199.)

2138.
Notice of motion for production of *cestuis que vie* out of Court (*i*). [Dan. Pr. 2196.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*h*).)

(*Title ; as thus :*)

Ex parte E. F.

In the matter of an indenture of lease dated the ——, 188—, made between A. B. of the one part, and C. D. of the other part [*or as may be*].

And in the matter of the Act 6th Anne, chapter 72, intituled "An Act for the more effectual discovery of the death of persons pretended to be alive, to the prejudice of those who claim estates after their deaths."

Other formal parts : see Form 38.

on the part of E. F., of (*residence and addition*), that C. D., of, *&c.*, may be ordered, on the ——, 188—, to produce and show at the door of the parish church of E., in the county of F. : between the hours of eleven in the forenoon, and one in the afternoon [*or as may be*] : according to the provisions of the above Act : to the said E. F.,

(*f*) See R. S. C. Ord. XXXIV. 5 ; App. G., No. 25.

(*g*) 6 Anne, c. 72 (Rev. Stat.). See 2 Seton, 1278—1280. As to the course where the tenant for life, or *cestui que vie*, is abroad : or, though alive, cannot be produced : see 6 Anne, c. 72, ss. 2, 4 ; Dan. Pr. 2198, 2199. The Act has usually been cited 6 Anne, c. 18, from Ruffhead's edition ; and is so cited, 2 Seton, 1278.

(*h*) See R. S. C. Ord. V. 9 (*c*). It is presumed that the application must, according to the present practice, in form be made by a notice of motion, as initial proceedings by *ex parte* motion do not seem to be contemplated by Ord. V. ; although in terms it applies to *every* matter that may be commenced in the Chancery Division. The notice of motion will not, of course, be served on anyone. For form of order on *ex parte* motion, see 2 Seton, 1278, No. 1.

(*i*) See 6 Anne, c. 72, s. 1.

Or, to G. H., of, *&c.*, the agent of the said E. F.,
L. M., N. O., and P. Q., in the above-mentioned indenture dated, *&c.*, respectively described, or some or one of them.

2139. Affidavit in support. [Dan. Pr. 2196.]

Title as in Form 2138 ; *other formal parts : see* Form 6.

1. *Show the creation of the life estate ; as thus :* By an indenture dated the ——, 18—, and made between A. B. of the one part, and C. D. of the other part : being the indenture mentioned in the title or heading of this affidavit : certain lands therein described, situate at W., in the parish of E., in the county of F., were demised by the said A. B. to the said C. D., for and during the lives of L. M., N. O., and P. Q., therein respectively described, and the life of the longest liver of them.

2. *Show the applicant's title to the reversion ; as thus :* By indenture dated the ——, 188—, made between the said A. B. of the one part, and me, this deponent, of the other part, the said A. B. granted and conveyed to me, my heirs and assigns, all the lands comprised in, and demised by, the said indenture of lease, but subject to such lease. I am now entitled to the reversion of the said lands, expectant on the death of the survivor of the said L. M., N. O., and P. Q.

3. *State special ground for the application ; as thus :* I have good cause to believe that all of them the said L. M., N. O., and P. Q., are dead ; and that such deaths are concealed by the said C. D., the lessee, and present tenant of the said lands.

2140. Motion paper for production of *cestuis que vie* in Court on default (*k*). [Dan. Pr. 2197.]

Formal parts : see Form 36.

To move on behalf of E. F., in the annexed order dated, *&c.*, named, that C. D., therein named, may be ordered to produce L. M., N. O., and P. Q., therein also named, at the bar of this Court on ——, 188—.

An affidavit in support accompanies.

2141. Affidavit in support. [Dan. Pr. 2197.]

Formal parts : see Form 6.

1. *Prove service of the order to produce at the church door : see* Form 32.

2. *Prove attendance there, and non-production ; as thus :* On the —— day of ——, 188—, I personally attended and waited at the door of the parish church of E., in the county of F., from before the hour of eleven of the clock in the forenoon, till after the hour of one of the clock in the afternoon of that day : being the place and time appointed by the said order of the ——, 188—, for the production by the said C. D. to me of L. M., N. O., and P. Q., in the said order named, or some or one of them ; but the said C. D. did not, nor did any person on his behalf, attend at

(*k*) See 6 Anne, c. 72, s. 1. For form of order, see 2 Seton, 1278, No. 2.

the time and place aforesaid and produce the said L. M., N. O., and P. Q., or any or either of them; nor have the said L. M., N. O., and P. Q., or any or either of them, been produced to me since the date of the said order.

2142.

Motion paper for final order, on non-production (*l*). [Dan. Pr. 2197.]

Formal parts: see Form 36.

To move on behalf of E. F., in the annexed order dated, *&c.*, named, for an order that L. M., N. O., and P. Q., in the said order named, may be deemed to be dead: in the event of their not being produced in open Court, pursuant to such order, on the ——, 188—.

An affidavit of service of the order accompanies.

2143.

Affidavit in support. [Dan. Pr. 2197.]

Formal parts: see Form 6.

1. *Prove service of the order for production in Court: see* Form 32.

Section XI.—Legacy Duty Act (*m*).

(*Dan. Pr.*, pp. 2199—2202, ccccxxvi.)

2144.

Application to Inland Revenue Office for certificate of payment of the Legacy Duty (*n*).

The executors of the last will of E. F., late of (*Description, as in Probate Act*), deceased, proved on the —— day of ——, in the year of our Lord one thousand eight hundred and eighty ——, propose to pay the sum of (*Here describe fully the legacy or share of residue proposed to be paid into Court; as thus:* £100, being the legacy of that amount bequeathed by the said will to A. B., a nephew of the said deceased, free of duty), into the Bank of England, with the privity of Her Majesty's Paymaster-General, on behalf of the Chancery Division of the High Court of Justice, to be placed to the account of A. B., a legatee under the will, who is an infant [*or*, absent beyond seas].

2145.

Certificate of payment of the duty (*o*). [Dan. Pr. 2199.]

Reg. ——. No. ——. 188—. Fo. ——.

I certify that the sum of £—— was paid on the —— day of ——, 188—, for legacy duty at the rate of £—— per cent. in respect of the

(*l*) See 6 Anne, c. 72, s. 1. For form of order, see 2 Seton, 1279, No. 3.

(*m*) See 36 Geo. III. c. 52, s. 32; and 37 Geo. III. c. 135; partly repealed by 35 & 36 Vict. c. 44, s. 26, and Sched. 2, Part II.; 2 Seton, 732, 733; Morgan, 51, 52; S. C. Funds Rules, 1884, rr. 30, 73.

(*n*) See 36 Geo. III. c. 52, s. 32; Dan. Pr. 2199.

(*o*) The certificate occurs at the foot of the application.

above gift of (*State what; as thus:* a legacy of £100), payable to A. B., described as (*State what; as thus:* a nephew) of the deceased.

Examined ——.

G. H.,
Controller of Legacy Duties.
By order of the Commissioners of Inland Revenue.

2146. Certificate that no legacy duty is payable (*oo*).

Formal parts: as in Form 2145.

I certify that no legacy duty is chargeable in respect of the above sum of £——, payable to A. B., described as —— of the deceased: inasmuch as such sum is stated to be part of the personal estate of the deceased, upon the value whereof stamp duty has been paid under section 27 or 33 of the 44 Vict. c. 12; and it is therefore exempt from legacy duty under section 36 or 41 of that Act [*or as may be*].

2147. Request for a direction for lodgment of cash under the Legacy Duty Act (*p*). [Dan. Pr. 2200.]

High Court of Justice,
Chancery Division.
Ledger credit (Fol. ——). } In the matter of A. B., an infant [*or*, absent beyond seas].

The Paymaster is hereby requested to issue a direction to the Bank to receive from C. D. the sum of £——: to be lodged pursuant to the Act 36 Geo. III. c. 52, and a certificate of the Commissioners of Inland Revenue.

(*Signature*) ——.

2148. Request for investment of money paid in (*q*). [Dan. Pr. 2199.]

Ledger credit to which the money herein referred to is standing. } ——.

To the Assistant Paymaster-General.

I request that the sum of £—— cash, standing to the above ledger credit, may be invested in consolidated £3 per cent. annuities [*or as may be*], pursuant to Rule 73 of the Supreme Court Funds Rules, 1884; and

(*oo*) See note (*n*), *supra*.

(*p*) See S. C. Funds Rules, 1884, r. 30. A fee of 1*s.* is payable on the request: by a stamp impressed thereon: Ord. as to S. C. Fees, 1884, Sched. No. 106; Ord. as to Fees, &c., July, 1884, p. 11. As to the forms of direction and bank certificate, see Forms 1727, 1728.

(*q*) A sum of money amounting to or exceeding 40*l.*, paid in under the Legacy Duty Act, will, upon a written request signed by or on behalf of the party paying it in, or by or on behalf of a person claiming to be entitled thereto or interested therein, be invested (without an order) in the Government securities specified in such request; and the dividends accruing in respect thereof, when or so soon as they amount to or exceed 10*l.*, will be from time to time invested in like annuities: S. C. Funds Rules, 1884, r. 73.

that the dividends on such annuities, and all accumulations thereof, may be invested in like annuities.

Dated the —— day of ——, 188—.

(*Name and address of solicitor or party.*)

2149.

Request to withdraw from deposit the money paid in (*r*). [Dan. Pr. 2200.]

Ledger credit to which the money herein referred to is standing } ——.

To the Assistant Paymaster-General.

I request that the sum of £——, money on deposit to the credit of (*State title of account*), may be withdrawn from deposit for the purpose of investment in consolidated £3 per cent. annuities [*or as may be*], pursuant to Rule 73 of the Supreme Court Funds Rules, 1884.

Dated the —— day of ——, 188—.

(*Name and address of solicitor or party.*)

2150.

Summons for leave to transfer stock into Court (*s*). [Dan. Pr. 2200.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*t*).)

In the matter of A. B., an infant [*or*, A. B., absent beyond seas].

And in the matter of the Act 36th George the Third, chapter 52, intituled "An Act for repealing certain duties on legacies and shares of personal estates, and for granting other duties thereon in certain cases."

Let (*&c.: Proceed as in* Form 1078, *to* noon), on the hearing of an application on the part of C. D., of (*residence and addition*): executor of the will [*or*, administrator of the personal estate] of E. F., late of, *&c.*, deceased: that he may be at liberty to transfer £—— consolidated £3 per cent. annuities [*or as may be*] into Court to the credit of "In the matter of A. B., an infant" [*or*, "A. B., absent beyond seas"]: being

(*r*) Where money paid into Court under the Legacy Duty Act has been placed on deposit before any request for investment has been left at the Pay Office, such money, and any interest to be credited in respect thereof, if amounting to 40*l.*, will upon request be withdrawn from deposit and invested: S. C. Funds Rules, 1884, r. 73.

(*s*) The application is made *ex parte* by an originating summons; Orders have been made on *ex parte* motion or on *ex parte* petition; but it is usual now to apply by summons: Dan. Pr. 2200; 2 Seton, 733; *Re Thomas*, M. R. at Chambers; 8 July, 1869, Reg. Lib. B. 2305. It has not been thought necessary to give a form of motion paper or petition. For form of motion paper, see Dan. Forms, 3rd ed., No. 2248. For form of *ex parte* petition, see *Ibid.*, No. 2250. For form of order made on petition, see 2 Seton, 732, No. 1.

(*t*) See R. S. C. Ord. V. 9 (*b*).

a legacy [*or*, share of residue of personal estate] to which the said A. B. is entitled under the said will.

Or, being the said A. B.'s distributive share of the said E. F.'s personal estate, as one of his next of kin—*or as may be* (*u*).

2151.

Petition for transfer and payment of legacy to the legatee (*v*). [Dan. Pr. 2200.]

(*Title: as in* Form 2150.)

To Her Majesty's High Court of Justice.

The humble petition of the above-named A. B., of (*residence and addition*), late an infant [*or as may be*].

Showeth as follows:

Show how the fund arose; and the payment into Court; as thus: 1. E. F., late of, &c., a maternal uncle of your petitioner, died intestate on ——, 188—. leaving your petitioner one of his next of kin according to the statutes of distribution; and on the ——, 188—, letters of administration of his personal estate were granted to C. D. by the Principal Registry of the Probate Division of this Court.

2. In consequence of the infancy of your petitioner, the said C. D. on or about the ——, 188—, paid into Court to the credit of "In the matter of A. B., an infant," the sum of £A., as your petitioner's distributive share of the personal estate of the said E. F., as one of his next of kin.

Show the present state of the fund; as thus: 3. The said £A. was invested in the sum of £B. consolidated £3 per cent. annuities; and the same, with the dividends and accumulations of dividends thereon, is now represented by the sums of £C. like annuities, and £D. cash, respectively remaining to the credit of the said matter.

Show that the disability has been removed; as thus: 4. Your petitioner attained his age of twenty-one years on the —— day of ——, 188—.

Your petitioner therefore humbly prays, that the sums of £C. consolidated £3 per cent. annuities, and £D. cash, in Court to the credit of "In the matter of A. B., an infant," may be respectively transferred and paid to your petitioner, A. B. (*w*).

Or that (*Conclude as in* Form 40; *and add foot note,* Form 41.)

(*u*) The directions for transfer into Court will be contained in a lodgment schedule to the order: S. C. Funds Rules, 1884, rr. 5, 10, 24, 25; on receipt of a copy of the schedule the Paymaster will issue a direction for lodgment, *Ibid.*, r. 30.

(*v*) The application is made by petition in cases where the money or securities in Court exceed 1000*l.*, or 1000*l.* nominal value: see R. S. C. Ord. LV. 2 (4). Where the fund exceeds 1000*l.*, an application for advancement thereout to an infant should be made by petition, notwithstanding R. S. C. Ord. LV. 2 (12); and, if necessary, the petition will be adjourned to Chambers: *Re Coore*, W. N. (1883), 169.

(*w*) The directions for transfer and payment will be contained in a payment schedule to the order: S. C. Funds Rules, 1884, rr. 6, 10, 24, 25, 46.

2152.

Summons for the like (*x*). [Dan. Pr. 2200.]

(*Title: as in* Form 2150; *other formal parts as in* Form 43 *or* 1077 *or* 1078.)

on the part of the above-named A. B., of (*residence and addition*), late an infant but now adult, that the (*Continue as in prayer* of Form 2151, *substituting* "applicant" *for* "petitioner").

2153.

Affidavit in support of petition or summons for transfer and payment of legacy to the legatee (*y*). [Dan. Pr. 2201.]

Formal parts: see Form 6.

1. I know and am well acquainted with A. B., in the title or heading of this affidavit named. He is the same person as A. B., the petitioner named in the petition presented to Her Majesty's High Court of Justice,

Or, as A. B., the applicant named in the summons taken out at the Chambers of Mr. Justice ——,

in this matter, on the —— day of ——, 188—; and he is also the same person as A., son of G. B. and H. his wife, named in the paper writing now produced and shown to me, and marked A. (*z*), and purporting to be a certified copy of an entry in the register book of baptisms kept for the parish of M., for the year 18— [*or as may be*].

2. *Verify any other facts stated in the petition; or necessary to be proved in support of the summons.*

3. *Show means of knowledge.*

Section XII.—Land Tax Redemption Act (*a*).

(*Dan. Pr.*, pp. 2202, 2203.)

2154.

Petition for leave to cut and sell timber on a settled estate, and apply proceeds in redeeming the land tax. [Dan. Pr. 2202.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge* (*b*).)

In the matter of the estates settled by the will of A. B., esquire, deceased [*or as may be*].

And in the matter of the Act 42nd George the Third, chapter

(*x*) The application will be by summons in cases where the money or securities in Court do not exceed 1000*l.*, or 1000*l.* nominal value: R. S. C. Ord. LV. 2 (4); see *In re Barker*, W. N. (1884), 237. If an order has been previously made in the matter, an ordinary summons will be sufficient; otherwise an originating summons will be necessary.

(*y*) In addition to this affidavit, the certificate of fund, and an office copy of the certificate of payment or transfer into Court, must be produced: Dan. Pr. 2201.

(*z*) Exhibit it. For form of memorandum of exhibit, see Form 28.

(*a*) See 42 Geo. III. c. 116, s. 67: amended by 16 & 17 Vict. c. 117.

(*b*) See R. S. C. Ord. V. 9 (*d*).

116, intituled "An Act for consolidating the provisions of the several Acts passed for the redemption and sale of the land tax into one Act, and for making further provision for the redemption and sale thereof; and for removing doubts respecting the right of persons claiming to vote at elections for Knights of the Shire and other members to serve in Parliament, in respect of messuages, lands, or tenements, the land tax upon which shall have been redeemed or purchased."

To Her Majesty's High Court of Justice.

The humble petition of C. D., of (*residence and addition*).

Showeth as follows:

1. *State the instrument under which the petitioner claims title so far as is sufficient to show that he is entitled beneficially to the rents and profits of the hereditaments charged with the land tax, and that he is restricted from cutting down timber standing thereon.*

2. *State the amount of the land tax.*

3. *Show that there is timber growing on the estate in a fit state to be cut; and that it is expedient to cut down sufficient to redeem the land tax.*

Your petitioner therefore humbly prays, as follows:

1. That he may be at liberty to cut down and sell such quantity of timber upon the said settled estates as shall be sufficient to redeem the land tax charged upon the said estates, and to defray the costs and expenses hereinafter mentioned.

2. That out of the proceeds of such sale the costs and expenses incurred in the surveying, valuing, and felling such timber, or otherwise on account of the sale thereof, and the costs of this application may be paid and satisfied.

3. That thereout also the land tax charged on the said estates may be redeemed.

4. That the residue of such proceeds may be applied and disposed of in such manner as this Court may please to direct.

Or that (*Conclude as in* Form 40; *and add foot note*, Form 41).

Section XIII.—Property Law Amendment Act (*c*).

(*Dan. Pr.*, pp. 2203—2209.)

2155.

Petition for the appointment of a nominee to surrender an existing lease, and to accept a new lease, on behalf of an infant, or married woman (*d*). [Dan. Pr. 2204.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge* (*e*).)

In the matter of A. B., an infant, by C. D., his next friend;

Or, of A. B., the wife of E. B., by C. D., her next friend;

And in the matter of the Act 11th George the Fourth and 1st William the Fourth, chapter 65, intituled "An Act for consolidating and amending the law relating to property belonging to infants, femes covert, idiots, lunatics, and persons of unsound mind (*f*).

To Her Majesty's High Court of Justice.

The humble petition of the above-named A. B., by C. D., of (*residence and addition*), his [*Or*, her] next friend.

Showeth as follows:

1. *State the title of the petitioner to the beneficial interest in the lease proposed to be surrendered.*

2. *State why such surrender is deemed expedient; and on what terms the new lease is to be granted.*

Your petitioner therefore humbly prays, that the said C. D., or some other proper person, may be appointed, in the place of your petitioner, to surrender, by deed, the said indenture of lease of the ——, 188—; and to accept and take, in the place and for the benefit of your petitioner, a new lease of the premises comprised in the said indenture for and during the lives of N. O. and P. Q. [*or as may be*]: such surrender and new lease to be settled by the Judge (*g*).

Or that (*Conclude as in* Form 40; *and add foot note,* Form 41).

(*c*) See 11 Geo. IV. & 1 Will. IV. c. 65; 2 Seton, 742—745; Simpson on Infants, 334; Chambers on Infants, 456—459; Macpherson on Infants, 315—319.

(*d*) See 11 Geo. IV. & 1 Will. IV. c. 65, s. 12. For form of order, see 2 Seton, 742, No. 1. As to the effect of a surrender made and of a lease executed under the Act, see 11 Geo. IV. and 1 Will. IV. c. 65, s. 31; Dan. Pr. 2209. As to the uses, &c., to which the new lease will be subject, see 11 Geo. IV. & 1 Will. IV. c. 65, s. 15; Dan. Pr. 2205. As to the payment of fines, &c., before renewal, see 11 Geo. IV. & 1 Will. IV. c. 65, s. 20; Dan. Pr. 2208. As to payment of the expenses of renewal, see 11 Geo. IV. & 1 Will. IV. c. 65, s. 14; Dan. Pr. 2204, 2205.

(*e*) See R. S. C. Ord. V. 9 (*d*).

(*f*) As to the title, see Dan. Pr. 2204, note (*a*); 2 Seton, 744.

(*g*) See 2 Seton, 742. As to settling leases at Chambers, see Dan. Pr. 1063, 1064; and Forms 1261—1265; and notes thereto.

2156. Summons for the like, in the case of an infant ward of Court, &c. (*h*). [Dan. Pr. 2204.]

(*Entitle the summons in the cause or matter in which the infant is a ward of Court, or wherein the administration of the estate of the infant, or his maintenance, is under the direction of the Court; and also in the matter of the Act:* Form 2155; *and add reference to the record.*)

Let (*&c.: Proceed as in* Form 43 *or* 1077, *to* noon), on the hearing of an application on the part of the above-named A. B., by C. D., of (*residence and addition*), his next friend, that the said C. D., or some other proper person, may be appointed, in the place of the said A. B., for the purposes following; namely:

1. To surrender, by deed, a certain indenture of lease, dated the —— day of ——, 188—, made between G. H., of the one part, and L. M., of the other part: whereby certain premises situate at, *&c.*, were demised to the said L. M. for the lives of N. O. and P. Q., and the life of the longest liver of them [*or as may be*]; and the beneficial interest in which said indenture of lease is vested in the said A. B.

2. To accept and take, in the place and for the benefit of the said A. B., a new lease of the premises comprised in the said indenture of lease, for and during the lives of the said N. O. and P. Q. [*or as may be*].

And that such surrender and new lease may be settled by the Judge.

Dated (*&c.: Conclude as in* Form 43 *or* 1077).

2157. Petition for the surrender of an existing lease, and grant of a new lease: where the reversion belongs to an infant, or a married woman (*i*). [Dan. Pr. 2205.]

Proceed as in Form 2155, *to* as follows:

1. *State the title of the petitioner to the reversion of the lease proposed to be surrendered.*

2. *State why such surrender is deemed expedient; and on what terms the new lease is to be granted.*

Your petitioner therefore humbly prays, that he [*or*, she] may be at liberty to accept a surrender of the said indenture of lease dated the ——, 188—; and to make and execute a new lease of the premises comprised in the said indenture for and during the lives of (*&c.: Conclude as in prayer of* Form 2155).

(*h*) See R. S. C. Ord. LV. 2 (9). An ordinary summons is sufficient.

(*i*) See 11 Geo. IV. & 1 Will. IV. c. 65, s. 16. As to the effect of a surrender made and lease executed under the Act, see 11 Geo. IV. & 1 Will IV. c. 65, s. 31; Dan. Pr. 2209. As to the payment of fines, &c., before renewal, see 11 Geo. IV. & 1 Will. IV. c. 65, s. 20; Dan. Pr. 2208. As to the application of the fines and premiums, see 11 Geo. IV. & 1 Will. IV. c. 65, s. 21; Dan. Pr. 2208. As to the power of the Court to authorise a renewal, where the person who ought to renew is out of the jurisdiction, see s. 18; and see 1 & 2 Vict. c. 62; and Dan. Pr. 2207, 2208.

2158.

Summons for the like, in the case of an infant (*j*). [Dan. Pr. 2205.]

Proceed as in Form 2156, *to* next friend:

that the said A. B. may be at liberty to accept a surrender of a certain indenture of lease (*Describe it: see* Form 2156); and to make and execute a new lease of the premises comprised (*&c.: Conclude as in* Form 2157).

2159.

Conditional contract to grant a lease of an infant's land. [Dan. Pr. 2207.]

(*See* Form 1360: *which can be readily adapted.*)

2160.

Petition to carry the conditional contract into effect (*k*). [Dan. Pr. 2206.]

Proceed as in Form 2155, *to* as follows:

1. *State the title of the infant to the hereditaments proposed to be demised, showing that the case falls within section* 17.

2. *State the material parts of the conditional contract for the lease, showing that the terms are such as can be sanctioned under section* 17.

Your petitioner therefore humbly prays, as follows:

1. That the said contract dated the ——, 188—, may be carrried into effect.

2. That a proper lease in conformity with the said contract may be settled and approved by the Judge.

3. That your petitioner

Or, That the said C. D., the guardian of your petitioner, in the name of your petitioner,

may be at liberty to execute such lease when so settled.

4. That a counterpart of such lease may be executed by the said G. H., the lessee; and be deposited for safe custody at the Central Office of the Supreme Court of Judicature (*l*), until your petitioner attains his age of twenty-one years: with liberty to proper parties to have the use thereof in the mean time, for the purpose of enforcing any of the covenants therein contained.

Or that (*Conclude as in* Form 40; *and add footnote*, Form 41.)

2161.

Summons to carry into effect conditional contract to grant a lease of an infant's land (*m*). [Dan. Pr. 2206.]

Proceed as in Form 2156, *to* next friend:

1. That the conditional contract, dated the ——, 188—, entered into between E. F., on behalf of the said A. B., of the one part, and G. H. of

(*j*) See R. S. C. Ord. LV. 2 (9). An ordinary summons is sufficient.

(*k*) See 11 Geo. IV. & 1 Will. IV. c. 65, s. 17. As to the effect of a lease granted under the Act, see 11 Geo. IV. & 1 Will. IV. c. 65, s. 31; Dan. Pr. 2209. For forms of orders, see 2 Seton, 742, 743, Nos. 2—4.

(*l*) See R. S. C. Ord. LXI. 1. For mode of depositing documents in the Central Office, see Dan. Pr. 1848, 1849.

(*m*) See R. S. C. Ord. LV. 2 (9). An ordinary summons is sufficient.

the other part, for granting to the said G. H. a lease of certain land, therein described, which the said A. B. is seised or possessed of, or entitled to, in fee [*or*, in tail ; *or as may be*], may be carried into effect.

2—4. *Same as paragraphs* 2—4, *in prayer of* Form 2160, *substituting* "the said A. B." *for* "your petitioner."

(*See* Form 1260, *which can be readily adapted.*)

2162. Affidavit in support of petition or summons to grant lease. [Dan. Pr. 2207.]

SECTION XIV.—FINES AND RECOVERIES ABOLITION ACT (*n*).

(*Dan. Pr.*, pp. 2209—2211.)

2163. Petition for consent of the Court as protector of a settlement, in place of a person under disability (*o*). [Dan. Pr. 2211.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*p*).)

In the matter of A. B., an infant [*or as may be*].
And in the matter of the Act 3rd and 4th William the Fourth, chapter 74, intituled "An Act for the abolition of fines and recoveries, and for the substitution of more simple modes of assurance."

To Her Majesty's High Court of Justice.

The humble petition of C. D., of (*residence and addition*).

Showeth as follows :

1. *State the limitations of the settled estate ; and the manner in which the person under disability became protector of the settlement.*

2. *State the nature of the disability of such person.*

3. *State how the petitioner has become tenant in tail of the settled estate.*

4. Your petitioner is desirous of barring his estate tail in the said settled estate, and vesting the fee-simple thereof in himself.

Your petitioner therefore humbly prays, that this honourable Court will see fit : as protector of the settlement made by the said indenture of the ——, 18— [*or as may be*], in the place of the said A. B. : to consent to a disposition by your petitioner, under the provisions of the above-mentioned Act of Parliament, for the purpose of barring the estate tail of your petitioner in the hereditaments comprised in the said indenture ; and that a proper deed for the purpose of barring such estate tail may be directed to be settled.

Or that (*Conclude as in* Form 40 ; *and add footnote*, Form 41).

(*n*) See 3 & 4 Will. IV. c. 74, ss. 33, 48 ; 2 Seton, 1282—1283 ; Shelford R. P. Acts, 336, 337 ; Sugd. Stat. 236 ; Sugd. V. & P. 467.

(*o*) For form of order, see 2 Seton, 1280, No. 1.

(*p*) See R. S. C. Ord. V. 9 (*d*).

SECTION XV.—INVESTMENT ON REAL SECURITIES IN IRELAND ACT (*q*).

(*Dan. Pr.*, pp. 2211, 2212.)

2164. Petition for leave to invest (*r*). [Dan. Pr 2211.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge* (*s*).)

In the matter of the trusts of the will of A. B., deceased [*or as may be*].

And in the matter of the Act 4th and 5th William the Fourth, chapter 29, intituled "An Act for facilitating the loan of money upon landed securities in Ireland."

To Her Majesty's High Court of Justice.

The humble petition of C. D., of (*residence and addition*).

Showeth as follows :

1. *State such parts of the deed or will settling the trust fund as are material to the application.*

2. *State the present mode of investment of the fund proposed to be changed, and the rate of interest it produces.*

3. *State who are beneficially interested in the fund.*

4. *State the short particulars of the proposed investment, and its desirability.*

Your petitioner therefore humbly prays, that the said [*trustees*] may be authorised to sell so much of the said £—— consolidated £3 per cent. annuities [*or as may be*], as will raise the sum of £—— ; and to lend the money to arise by such sale upon the security of a mortgage of the said real estates of the said G. H., situate at ——, in Ireland : to be held by them upon the same trusts as they now hold the said annuities [*or as may be*].

Or that (*Conclude as in* Form 40 ; *and add foot note*, Form 41).

SECTION XVI.—THE COPYHOLD ACTS, 1841, 1843, 1852, AND 1858 (*t*).

(*Dan. Pr.*, pp. 2212—2215, ccccxxvi.)

(*q*) See 4 & 5 Will. IV. c. 29 ; Lewin, 301 ; 3 Davidson's Conv. 32—34.

(*r*) See 4 & 5 Will. IV. c. 29, s. 2.

(*s*) See R. S. C. Ord. V. 9 (*d*).

(*t*) See the Copyhold Act, 1841 (4 & 5 Vict. c. 35), ss. 73—75 ; the Copyhold Act, 1843 (6 & 7 Vict. c. 23), s. 14 ; the Copyhold Act, 1852 (15 & 16 Vict. c. 51), ss. 22, 39 ; the Copyhold Act, 1858 (21 & 22 Vict. c. 94), ss. 5, 13, 43—45. See, also, the Universities and Colleges Estates Extension Act, 1860 (23 & 24 Vict. c. 59), s. 4 ; the Universities and Colleges Estates Amendment Act, 1880 (43 & 44 Vict. c. 46), ss. 2—4. As to these Acts, see Rouse's Enfranchisement Manual, *passim* ; 2 Seton, 1467—1470.

2165.
Request for lodgment of cash under the Copyhold Acts (*u*).
[Dan. Pr. 2213.]

High Court of Justice,
Chancery Division.

Ledger Credit (Fol. ——). } *Ex parte* the Land Commissioners for England, and the Manor of Lawford in the County of Essex [*or as may be*] (*v*).

The Paymaster is hereby requested to issue a direction to the Bank to receive from A. B. the sum of £——, lodged pursuant to the Copyhold Acts.

2166.
Summons for investment of money paid in and for payment of dividends to tenant for life (*w*).
[Dan. Pr. 2213.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*x*).)
Ex parte the Land Commissioners for England.
In the matter of the settled estates of A. B., esquire.
And in the matter of the Copyhold Acts.

Let all parties (*Proceed as in* Form 1078, *down to* application) on the part of C. D., of (*residence and description*), the tenant for life of the manor of ——, in the county of ——.

1. That it may be referred to the Taxing Master to tax the costs of the applicant and of (*Name any other persons entitled to costs*), of this application and consequent thereon, as between solicitor and client.

2. That out of the £—— money on deposit in Court to the credit of "Ex parte the Land Commissioners for England: The account of the manor of ——," the costs of the applicant and of (*name the other persons who are entitled to costs*) may be paid.

3. That out of the residue of the said £——, money on deposit, the sum of £——, being the interest which has been credited in respect of the sum of £——, paid into Court to the like credit, while the same has been on deposit, and any interest to be credited in respect thereof, may be paid to the applicant C. D.

4. That the residue of the said sum of £—— money on deposit, may be invested in consolidated £3 per cent. annuities, and that the dividends thereon as they accrue due during the life of the applicant C. D. may be paid to the said C. D. until further order.

(*u*) See S. C. Funds Rules, 1884, rr. 30, 40. A fee of 1*l*s. is payable: by a stamp impressed on the request: Ord. as to S. C. Fees, 1884, Sched. No. 106; Ord. as to Fees, July, 1884, p. 11. For forms of direction and certificate, see Forms 1727, 1728.

(*v*) The name and locality of the manor must be stated: S. C. Funds Rules: r. 40.

(*w*) All applications under the Copyhold Acts respecting money or securities in Court must be made by summons at Chambers: R. S. C. Ord. LV. 2 (11). The application is made by originating summons. The summons is not to be served on the copyhold commissioners unless the Judge so directs: *Ibid.* For forms of orders, see 2 Seton, 1467—1469, Nos. 1—5.

(*x*) See R. S. C. Ord. V. 9 (*b*).

Or, in lieu of paragraphs 2, 3, 4, *if the summons is framed with a Pay Office Schedule,* say : that the funds in Court may be dealt with as directed in the schedule hereto (*y*).

Section XVII.—Acts relating to Ecclesiastical Estates (*z*).

(*Dan. Pr.*, pp. 2215—2219.)

2167.

Petition for sale of ecclesiastical lease (*a*).

[Dan. Pr. 2218.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge* (*b*).)

In the matter of the estate of I. B. deceased.

And in the matter of the Act 23 and 24 Victoria, chapter 124, intituled "An Act to amend the Acts relating to the Ecclesiastical Commissioners, and the Act concerning the management of Episcopal and Capitular Estates in England."

To Her Majesty's High Court of Justice,

The humble petition of C. D., of, *&c.*, and E. F., of, *&c.*

Showeth as follows :

1. By an indenture of lease dated, *&c.*, and made between the Dean of St. P. E., of the one part, and W. R., of the other part, certain lands therein described were granted and demised by the said Dean to the said W. B., his heirs and assigns for the lives of M. B., J. H., and E. B., therein respectively described, and the life of the longest liver of them, at the yearly rent thereby reserved, and under the covenants therein mentioned.

2. By divers assurances and acts in the law the estate and interest of the said W. B. and his heirs under the said lease became vested in I. B.

3. By the statutes relating to cathedral endowments, and an order of Her Majesty in Council dated, *&c.*, duly published in the *London Gazette,* the said lands became vested in the Ecclesiastical Commissioners of England, subject to the said lease.

4. By his will dated the —— day of ——, 188—, the said I. B. gave and bequeathed the said leasehold hereditaments and premises to your petitioners upon the trusts following, that is to say (*set out the trusts so far as material*).

5. The said I. B. died on the —— day of ——, 188—, and his said will was on the —— day of ——, 188—, proved in the Principal

(*y*) The directions for payment of costs, payment of interest money, investment of residue, and payment of dividends will be contained in a payment schedule to the order : S. C. Funds Rules, 1884, rr. 6, 10, 11, 24, 25, 46.

(*z*) See 5 & 6 Vict. c. 26, ss. 8, 12 ; 14 & 15 Vict. c. 104, s. 7 ; 23 & 24 Vict. c. 124, ss. 29, 36—38 ; 2 Seton, 1277, 1278.

(*a*) See 23 & 24 Vict. c. 124, s. 38. For form of order, see 2 Seton, 1274, No. 9.

(*b*) See R. S. C. Ord. V. 9 (*d*).

[*or as may be*] Registry of the Probate Division of this Court by your petitioners, the executors therein named.

6. Your petitioners have no power to sell the said leasehold hereditaments and premises; and G. H. the person entitled to the annual proceeds thereof is an infant under the age of twenty-one years.

7. M. B., one of the lives mentioned in the said lease, is dead, and J. H. and E. B., the other lives therein mentioned, are of the respective ages of —— years and —— years.

8. No renewal of the said lease can be obtained from the Ecclesiastical Commissioners.

9. By an agreement in writing dated the —— day of ——, 188—, made between your petitioners of the one part, and Y. Z. of the other part, your petitioners agreed, subject to the sanction and approbation of this Court, with the said Y. Z. for the sale of the said leasehold interest in the said hereditaments and premises vested in them as such trustees as aforesaid for the sum of £——.

10. Your petitioners are advised and believe that it is very greatly to the benefit of all persons interested under the will of the said I. B. deceased that the said proposed sale should be sanctioned and approved.

Your petitioners therefore humbly pray as follows:

1. That the sale of the said leasehold hereditaments and premises, upon the terms and conditions mentioned in the said agreement of the —— day of ——, 188—, may be sanctioned and approved.

2. That the said Y. Z. may be at liberty to pay to your petitioners as such trustees as aforesaid the purchase-money payable under the said agreement.

3. That your petitioners and all other necessary parties (if any) may join in a proper assignment of the said leasehold interest to the said Y. Z.; such assignment to be settled by the Judge in case the parties differ.

4. That the costs of your petitioners and all other parties properly appearing on this application of and incident to the said sale, and of and relating to the said assignment, and of this application, be taxed as between solicitor and client; and be paid and retained by your petitioners out of the purchase-money to be paid to them by the said Y. Z. as aforesaid.

5. That the residue of such purchase-money be invested by your petitioners, and held by them upon the same trusts, as far as the circumstances of the case will admit, as the said leasehold hereditaments and premises are, under the will of the said I. B. deceased, subject to

Or that (*Conclude as in* Form 40; *and add foot note*, Form 41).

Section XVIII.—The Defence Acts, 1842, 1860, and 1864 (*c*).

(*Dan. Pr.*, pp. 2219—2222.)

2168.

Summons for investment of compensation paid in by the War Department, and for payment of income to a tenant for life (*d*). [Dan. Pr. 2222.]

In the High Court of Justice, 188—. B. No. ——.
Chancery Division.
(*Name of Judge* (*e*).)

In the matter of the estate of A. B., deceased [*or as may be*].
And in the matter of the Defence Act, 1860.

Let (*&c.: Proceed as in* Form 1078, *to* noon), on the hearing of an application on the part of C. D., of (*residence and addition*):

1. That the costs of the applicant of this application may be taxed, as between solicitor and client.

2. That the said costs when taxed may be paid out of the £ A. cash in Court to the credit of "In the matter of the Defence Act, 1860—The account of the devisees under the will of A. B., deceased" [*or as may be*]: being money paid into Court to the said credit by Her Majesty's Principal Secretary of State for the War Department, as compensation for certain lands settled by the will of the said A. B. [*or as may be*], required to be taken, and kept free from buildings, for the purposes of the Defence Acts, and any damage sustained in respect thereof [*or as may be*], and as an equivalent for the expenses consequent on such payment.

3. That the residue of the said £ A. may be invested in consolidated £3 per cent. annuities [*or as may be*].

4. That the dividends as they accrue due on the said annuities during the life of the applicant C. D. may be paid to the applicant C. D. until further order.

Or, in lieu of paragraphs 2, 3, 4, *if the summons is framed with a Pay Office schedule, say:* that the funds in Court may be dealt with as directed in the schedule hereto (*f*).

Dated (*&c.: Conclude as in* Form 1078, *including the foot note*).

2169.

Affidavit in support. [Dan. Pr. 2222.]

Formal parts: see Form 6.

1. *State the settlement of the lands in question; as thus:* The above-named A. B. by his last will, dated, *&c.*, devised all his real estate to me,

(*c*) Defence Act, 1842 (5 & 6 Vict. c. 94), ss. 25—28; amended by the Ordnance Board Transfer Act, 1855 (18 & 19 Vict. c. 117); 22 & 23 Vict. c. 21, s. 8; Defence Act, 1860 (23 & 24 Vict. c. 112), ss. 20—24, 29, 45; Defence Act Amendment Act, 1864 (27 & 28 Vict. c. 89). As to these Acts, see 2 Seton, 1471—1473. The practice as to the payment in of compensation under these Acts is the same as in the case of payments in under the Lands Clauses Consolidation Acts: as to which see Dan. Pr. 1749, 1750, 2138; and Forms 2090 to 2092, and notes thereto. As to service of notices on or by the Secretary of State for War, see 23 & 24 Vict. c. 112, s. 45; Dan. Pr. 2222.

(*d*) See 5 & 6 Vict. c. 94, s. 26; amended by 22 & 23 Vict. c. 21, s. 8; 23 & 24 Vict. c. 112, ss. 23, 46; Dan. Pr. 2221, 2222. An original application at Chambers under these Acts is made by summons, in the form used for originating proceedings there: in other cases, by an ordinary summons. For forms of orders, see 2 Seton, 1471, Nos. 1, 2.

(*e*) See R. S. C. Ord. V. 9 (*b*).

(*f*) The directions for payment of costs, investment, and payment of dividends will be contained in a payment schedule to the order: S. C. Funds Rules, 1884, rr. 6, 10, 24, 25, 46.

this deponent, for my life ; with remainder to such of my sons as shall be living at my death, as tenants in common in fee. The said testator died on, *&c.*, and probate of his said will was granted on the ——, 188—, by the (Principal) Registry of the Probate Division of this Court to E. F.

2. *State what lands were required by the War Department to be taken, and kept free from buildings, &c. ; as thus :* On or about the —— day of ——, 188—, Her Majesty's Principal Secretary of State for the War Department gave notice that certain lands situate in the parish of M., in the county of K., particularly specified in the first schedule to such notice, were required to be taken absolutely for the construction of works, under the powers and provisions of the Defence Act, 1860 ; and that certain other lands situate in the said parish, and specified in the second schedule to such notice, were required to be kept free from buildings and other obstructions, for the purposes of the said Act. The lands so required to be taken absolutely contained together by admeasurement — a. — r. — p., or thereabouts ; and the lands so required to be kept free from buildings contained by admeasurement — a. — r. — p., or thereabouts ; and all the said lands were part of the estates devised by the will of the said A. B. [*or as may be*].

3. *State how the amount of compensation has been determined ; as thus :* By an agreement dated, *&c.*, made between me, this deponent, as devisee for life under the said will [*or as may be*] of the one part, and the said Principal Secretary of State of the other part, it was agreed that the sum of £—— should be the amount of the compensation to be paid for the lands so required to be taken, and kept free from buildings, and any damage sustained in respect thereof (*g*).

4. *State the payment of the compensation into Court ; as thus :* On or about the —— day of ——, 188—, the said sum of £—— : together with £30 as an equivalent for the expenses consequent upon such payment, as provided by the Defence Act, 1860 (*h*) : was paid by the said Principal Secretary of State into Court to the credit of "In the matter of the Defence Act, 1860—The account of the devisees under the will of A. B., deceased" [*or as may be*].

5. *Negative right of any other person : see* Form 2096, *paragraph* 8.

2170. Summons for investment of fund in the purchase of real estate (*i*). [Dan. Pr. 2221.]

(*See* Form 2094 : *which can be readily adapted.*)

2171. Petition for transfer and payment of fund to absolute owner (*j*). [Dan. Pr. 2221.]

(*See statements in* Form 2169, *and paragraph* 1 *of* Form 2095 : *which can be readily adapted.*)

(*g*) See 23 & 24 Vict. c. 112, ss. 10, 11 ; 2 Seton, 1472.
(*h*) See 23 & 24 Vict. c. 112, s. 21 ; Dan. Pr. 2220.
(*i*) See note (*c*), at p. 948.
(*j*) See note (*c*), at p. 948.

Section XIX.—Drainage and Improvement of Land Acts (*k*).

(*Dan. Pr.*, pp. 2223, 2224.)

2172.

Summons for directions that the Inclosure Commissioners may proceed with improvements, notwithstanding dissent (*l*). [Dan. Pr. 2223, 2224.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*m*).)

In the matter of the settled estates of A. B., deceased [*or as may be*].

And in the matter of the Improvement of Land Act, 1864.

Let (*&c.: Proceed as in* Form 1078, *to* noon), on the hearing of an application on the part of C. D., of (*residence and addition*), that the Land Commissioners for England (*mm*) may be authorised to entertain and proceed with the application which has been made to them by the said C. D., for their sanction to (*Describe the proposed improvement*), under the provisions of the above-mentioned Act: notwithstanding the dissent from such application of E. F. [*or other circumstance*].

Dated (*&c.: Conclude as in* Form 1078, *including the foot note*).

Section XX.—Inclosure Act (*n*).

(*Dan. Pr.*, pp. 2224, 2225.)

2173.

Petition for application of fund paid into Court under the Inclosure Act (*o*). [Dan. Pr. 2224.]

Forms 2093 *and* 2094, *of applications under the Lands Clauses Consolidation Acts, and* Form 2166, *of an application under the Copyhold Acts, can readily be adapted to an application under the* 8 *&* 9 *Vict. c.* 118. *The title of a petition under that Act may run thus:*

In the matter of the settled estates of A. B., deceased [*or as may be*].

And in the matter of the Acts for the Inclosure, Exchange, and Improvement of Land (*p*).

(*k*) See 8 & 9 Vict. 56; 10 & 11 Vict. cc. 11, 38; 11 & 12 Vict. c. 119; 13 & 14 Vict. c. 31; 19 & 20 Vict. c. 9; 27 & 28 Vict. c. 114; 33 & 34 Vict. c. 56. As to these Acts, see 2 Seton, 1267—1269.

(*l*) See 27 & 28 Vict. c. 114, s. 21. The application is made by an originating summons. For forms of order, see 2 Seton, 1268, Nos. 1, 2.

(*m*) See R. S. C. Ord. V. 9 (*b*).

(*mm*) See 45 & 46 Vict. c. 38, s. 48.

(*n*) See 8 & 9 Vict. c. 118, ss. 134, 137—140; Cooke on Inclosures.

(*o*) *Ibid.*

(*p*) See 15 & 16 Vict. 79, s. 34.

SECTION XXI.—THE MERCHANT SHIPPING ACTS, 1854 AND 1855 (*q*).

(*Dan. Pr.*, pp. 2225—2227.)

2174.

Petition for sale of a ship, or of share of a ship, vested by transmission in an unqualified owner (*r*).

[Dan. Pr. 2225, 2226.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge* (*s*).)

In the matter of the ship "City of London" [*or as may be*].

And in the matter of the Merchant Shipping Act, 1854.

To Her Majesty's High Court of Justice.

The humble petition of A. B., of (*residence and addition*).

Showeth as follows:

1. *State the registry in England of the ship, or share of ship, to which the petition relates.*

2. *State how the property in such ship or share has become vested by transmission on the death of an owner, or on the marriage of a female owner, in the petitioner; and that he is a person not qualified to be an owner of a British ship.*

Your petitioner therefore humbly prays, as follows:

1. That the said ship [*or*, share] may be directed to be sold, and the proceeds thereof paid to your petitioner, or otherwise disposed of in such manner as to this Court may seem fit.

2. That the right to transfer the said ship [*or*, share] to the purchaser thereof may be declared to be vested in C. D., of (*residence and addition*); or in such other person as to this Court may seem fit.

Or that (*Conclude as in* Form 40; *and add foot note* Form 41).

2175.

Motion paper or notice of motion for interim order to prohibit the dealing with a ship, or share of a ship (*t*).

[Dan. Pr. 2226.]

Formal parts: see Form 36 *or* 38.

on behalf of A. B., of (*residence and addition*), that any dealing with the ship [*or*, the share of C. D. of the ship] called the —— may be prohibited until, *&c.*, *&c.*

(*q*) See Merchant Shipping Act, 1854 (17 & 18 Vict. c. 104), ss. 62—65, 514; Merchant Shipping Amendment Act, 1855 (18 & 19 Vict. c. 91), s. 10; Merchant Shipping Amendment Act, 1862 (25 & 26 Vict. c. 63). As to these Acts, see 1 Seton, 276—281; 2 Seton, 1107—1112.

(*r*) See 17 & 18 Vict. c. 104, ss. 62—64.

(*s*) See R. S. C. Ord. V. 9 (*d*).

(*t*) See 17 & 18 Vict. c. 104, s. 65; 1 Seton, 277. For form of order, see 1 Seton, 276, No. 5. If no proceeding is pending, it is submitted that the application (if not made by petition (see Form 2176)), must in form be made by notice of motion: though such notice need not be served on any one: see note (*h*) to Form 2138.

2176.

Petition to prohibit a like dealing (*u*). [Dan. Pr. 2226.]

Proceed as in Form 2174, *to the end of par.* 1.

2. *State the interest of the petitioner in the ship or share; and the grounds for requiring the interposition of the Court.*

Your petitioner therefore humbly prays, that any dealing with the said ship [*or*, share] may be prohibited until, *&c.*, *&c.*

Or that (*Conclude as in* Form 40; *and add foot note*, Form 41).

2177.

Advertisement for claimants under a judgment in an action for limitation of liability (*v*). [Dan. Pr. 2227.]

Pursuant to an order of the High Court of Justice, Chancery Division, made in a cause of A. B. and others against the C. D. Company and others, 188—, B. No. ——, all persons claiming, or entitled to claim, in respect of the loss of the steam ship E., and in respect of the loss of, and damage to, the goods, merchandise, and other things on board the said steam ship E., at the time of the collision with the steam ship F.: which collision happened on the —— day of ——, 188—, in the English Channel off G. [*or as may be*]: and in respect of the loss and damage to the goods, merchandise, effects, or other things on board the said steam ship F., at the time of the said collision, and for what amounts respectively: are by their solicitors, on or before the —— day of ——, 188—, to come in and prove their claims, at the Chambers of Mr. Justice ——, in the Royal Courts of Justice, Strand, Middlesex; or in default thereof, they will be peremptorily excluded from the benefit of the said order.

——, the —— day of ——, 188—, at —— o'clock in the ——noon, at the said Chambers, is appointed for hearing and adjudicating upon the claims.

Dated this —— day of ——, 188—.

R. M.,
Chief Clerk.

Section XXII.—Law of Property and Trustees Relief Amendment Acts (*w*).

(*Dan. Pr.*, pp. 2227—2233, ccccxxvi.)

(*u*) See note (*t*), *supra*.

(*v*) See 17 & 18 Vict. c. 104, s. 514; 25 & 26 Vict. c. 63, s. 54. For form of judgment directing enquiries, see 1 Seton, 277, No. 1; and see, for cases collected, *Ibid.*, 279—281.

(*w*) See 22 & 23 Vict. c. 35, ss. 13, 30; 23 & 24 Vict. c. 38, s. 9; Lewin, 396, 534—536; Sugd. Pow. 561; Sugd. Stat. 315, 321; Sugd. V. & P. 502; 1 Seton, 491—493; Morgan, 99—104.

(1.) *Establishing a Sale under a Power.*

2178.

Petition to establish sale under a power where part of purchase-money has been erroneously paid to a tenant for life (*x*). [Dan. Pr. 2227, 2228.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*y*).)

In the matter of the settled estates of A. B. [*or as may be*].
And in the matter of the Act 22nd and 23rd Victoria, chapter 35, intituled "An Act to further amend the law of property, and to relieve trustees."

To Her Majesty's High Court of Justice.

The humble petition of C. D., of (*residence and addition*).

Showeth as follows:

1. *State the settlement of the estate in question.*

2. *State the sale thereof, with the timber thereon, or other articles attached thereto.*

3. *State the manner in which the purchase-money has been paid: showing that the tenant for life, or other party to the transaction, has erroneously received for his own benefit a portion of the purchase-money as the value of the timber or other articles.*

Your petitioner therefore humbly prays, as follows:

1. That it may be declared that, upon payment by him [*or*, by the said purchaser E. F.] of the full value of the said timber and articles [*or as may be*], at the time of the said sale thereof: with such interest thereon as this Court may think fit to direct: and the settlement of the said principal moneys and interest under the direction of this Court, upon such parties as in the opinion of this Court shall be entitled thereto, the said sale ought to be established.

2. That upon such payment and settlement as aforesaid being made, the said sale may be declared to be valid.

3. That the costs of this application, as between solicitor and client, may be paid by your petitioner [*or*, by the said E. F.].

Or that (*Conclude as in* Form 40; *and add foot note*, Form 41).

2179.

Summons for the like (*z*). [Dan. Pr. 2227, 2228.]

(*Title as in* Form 2178; *and add reference to the record.*)

Let (*&c.: Proceed as in* Form 1078, *to* noon), on the hearing of an application on the part of C. D., of (*residence and addition*):

1. That (*&c.: Adapt the prayer of* Form 2178).

Dated (*&c.: Conclude as in* Form 1078, *including the foot note*).

(*x*) See 22 & 23 Vict. c. 35, s. 13.

(*y*) See R. S. C. Ord. V. 9 (*d*).

(*z*) See 22 & 23 Vict. c. 35, s. 13. The application is made by an originating summons.

(2.) *Judicial Opinion, Advice, or Direction* (*a*).

(*a*) *Judicial Opinion, &c.—Summary of Material Provisions of R. S. C.* 1883.

	Order.
Title of proceedings.—All petitions, summonses, statements, affidavits, and other written proceedings under 22 & 23 Vict. c. 35, s. 30, must be intituled in the matter of the Act, and of the particular trust, will, or administration; every such petition or statement must state the facts concisely, and be divided into paragraphs numbered consecutively	LII. 19.
Statement.—At the time when any summons under the Act is sealed, the statement upon which it is grounded must be left at Chambers; and must, on the conclusion of the proceeding, be transmitted to the Chancery Registrar by the Chief Clerk, with the minutes of the opinion, advice, or direction, given by the Judge; and must be transmitted by the Registrar to the Central Office, to be there filed	,, 20.
Service.—Every such petition or summons must be served *seven clear days* before the hearing, unless the person served consents to a shorter time	,, 21.
Entry, &c., of opinion of Judge.—The opinion, advice, or direction of the Judge must be passed and entered and remain as of record, in the same manner as an order, and will be termed "a judicial opinion," or "judicial advice," or "judicial direction," as the case may be	,, 22.
Fees and allowances to solicitors.—These will be the same as are payable under R. S. C., and by the practice of the Court, for business of a similar nature	LXV. 26.

See 22 & 23 Vict. c. 35, s. 30; 23 & 24 Vict. c. 38, s. 10; Lewin, 534—536; Sugd. Stat. 321; 1 Seton, 491—493; Morgan, 102, 103.

2180.

Petition for a judicial opinion, advice, or direction (*b*). [Dan. Pr. 2228, 2232.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge* (*c*).)

In the matter of (*Describe the particular trust, will, or administration* (*d*); *as thus:*

the trusts of the marriage settlement of A. B. and C. his wife, dated, *&c.*

Or, the will of A. B., deceased.

Or, the administration of the estate of A. B., deceased).

And in the matter of the Act (*&c.: as in* Form 2178).

To Her Majesty's High Court of Justice.

The humble petition of E. F., of (*residence and addition*), and G. H., of, *&c.* (*e*).

(*b*) For forms of order on petition, see 1 Seton, 491, Nos. 1, 2: 492, No. 3. As to passing and entering, see R. S. C. Ord. LII. 22; and note (*a*), *supra*.

(*c*) See R. S. C. Ord. V. 9 (*d*).

(*d*) As to the title, see R. S. C. Ord. LII. 19; and note (*a*), *supra*; Dan. Pr. 2232.

(*e*) As to who may apply, and on whom the petition or summons is to be served, see Dan. Pr. 2232. As to the time for service, see R. S. C. Ord. LII. 21; and note (*a*), *supra*.

Showeth as follows:

1. }
2. } *State the facts, concisely: divided into paragraphs, numbered consecutively* (*f*).
3. }

The opinion, advice, or direction of this honourable Court is desired upon the following questions:

1. Whether }
2. Whether } (*State the questions respecting the management or administration of the trust property,*
3. Whether } *or the assets of the testator or intestate, upon*
4. Whether } *which an opinion, &c., is desired*).

5. In what manner the costs of this application should be paid or provided for (*g*).

(*Signature of counsel* (*h*).)

2181. Summons for a judicial opinion, advice, or direction (*i*). [Dan. Pr. 2228, 2232.]

(*Title: as in* Form 2180; *and add reference to the record.*)

Let (*&c.*: *Proceed as in* Form 1078, *to* noon), on the hearing of an application on the part of E. F., of (*residence and addition*), and G. H., of, *&c.*: the trustees of the above-mentioned settlement [*or as may be*]: for the opinion, advice, or direction of the Judge on the facts and questions submitted by their statement left in my Chambers this day.

Dated (*&c.*: *Conclude as in* Form 1078, *including the foot note*).

2182. Statement in support (*j*). [Dan. Pr. 2228, 2232.]

Proceed as in Form 2180, *to the end of the title: and continue thus:*

Statement of E. F., of, *&c.*, and G. H., of, *&c.*, for the opinion, advice, or direction of his lordship, Mr. Justice ——, under the provisions of the above-mentioned Act.

1. }
2. } (*State the facts, concisely: divided into paragraphs, numbered consecutively; and the questions: as in* Form 2180.).
3. }

(*Signature of counsel* (*k*).)

(*f*) See R. S. C. Ord. LII. 19; and note (*a*), *supra*.

(*g*) See 22 & 23 Vict. c. 35, s. 30; Dan. Pr. 2233; Morgan & Wurtzburg, 328; R. S. C. Ord. LXV. 26; and note (*a*), *supra*.

(*h*) See 23 & 24 Vict. c. 38, s. 9.

(*i*) See 22 & 23 Vict. c. 35, s. 30; 23 & 24 Vict. c. 38, s. 10. As to the title of the summons (which must be an originating one), and as to service thereof, see R. S. C. Ord. LII. 19, 21; and note (*a*), *supra*. For forms of order on summons, see 1 Seton, 492, Nos. 2, 3.

(*j*) See 23 & 24 Vict. c. 38, s. 9; R. S. C. Ord. LII. 19. As to the filing of the statement, and passing and entering the opinion, &c., see R. S. C. Ord. LII. 20, 22; and note (*a*), *supra*.

(*k*) See 23 & 24 Vict. c. 38, s. 9.

Section XXIII.—The Land Registry Act, 1862 (*l*).

(*Dan. Pr.*, p. 2234.)

(*l*) 25 & 26 Vict. c. 53, ss. 41—62. For forms of proceedings under this Act, which has fallen into disuse, see Dan. Forms, 2nd ed., Nos. 2180—2185.

Section XXIV.—The Declaration of Title Act, 1862 (*m*).

(*Dan. Pr.*, p. 2235.)

(*m*) 25 & 26 Vict. c. 67; 2 Seton, 1510, 1511. For forms of order, see 2 Seton, 1510, Nos. 1—3. The Act has fallen into disuse; it has not therefore been thought necessary to retain the forms of procedure under it. For such forms see Dan. Forms, 3rd ed., Nos. 2283—2285.

Section XXV.—The Confirmation of Sales Act (*n*).

(*Dan. Pr.*, pp. 2236, 2237.)

2183.

Petition for authority to dispose of land: reserving the minerals; or of the minerals: apart from the land (*o*). [Dan. Pr. 2236.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge* (*p*).)

In the matter of the trusts of the settlement made on the marriage of J. W. and H. his wife.

And in the matter of the Act 25th & 26th Victoria, chapter 108, intituled "An Act to confirm certain sales, exchanges, partitions, and enfranchisements by trustees and others."

To Her Majesty's High Court of Justice.

The humble petition of W. H., of, *&c.*, S. W. U., of, *&c.*, J. W., of, *&c.*, and H. his wife, and of (*eight infants*), by the said J. W. their father and next friend.

Showeth as follows:

1—21. (*Statements showing that, under the settlement mentioned in the title, certain hereditaments were vested in the petitioners W. H. and S. W. U., in trust for the other petitioners: with power to sell, and lease; and that such settlement contained no provision forbidding the disposition of the premises therein comprised with an exception or reservation of any minerals.*)

(*n*) See 25 & 26 Vict. c. 108; 2 Seton, 1258, 1259; Dart. V. & P. 68, 1183; 3 Davidson's Conv. 578, 579.

(*o*) *Re Willway:* petition filed 4 Mar. 1863. For the order thereon, see S. C. 21 Feb. 1863, Reg. Lib. B. 364; 32 L. J. Ch. 226: 1 N. R. 469, V.-C. W. For forms of order, see 2 Seton, 1258, Nos. 1, 2. As to service of the petition, see Dan. Pr. 2236, 2237.

(*p*) See R. S. C. Ord. V. 9 (*d*).

22. The lands and hereditaments now subject to the trusts of the above-mentioned indenture are suitable for sale in lots for building, and contain mines, minerals, and coals: the reservation of which out of the grants of the said lands would not lessen the value of the said lands for building purposes, but would, by the separate sale of such mines, minerals and coals, be of great profit to the persons beneficially entitled under the said indenture.

Your petitioners therefore humbly pray, that the said W. H. and S. W. U., or the survivor of them, or other the trustees or trustee for the time being of the said indenture, may be at liberty to exercise all or any of the trusts, powers and authorities of the said indenture: so as to dispose of the land and hereditaments now held under and subject to the trusts of the said indenture, with an exception or reservation of the coals, mines and minerals in and under the same; and the rights and powers of, or incidental to the working, getting, or carrying away of such coals, mines and minerals; and so as to dispose of the coals, mines and minerals with such rights or powers separately from the residue of the land; and in either case without prejudice to any future exercise of the said trusts, powers and authorities with respect to the excepted coals, mines or minerals, or (as the case may be) the undisposed of land.

Or that (*Concluding as in* Form 40; *and foot note*, Form 41).

Section XXVI.—The Mortgage Debenture Acts, 1865 and 1870 (*q*).

(*Dan. Pr.*, pp. 2237—2239.)

2184. Summons for the discharge of a satisfied registered security (*r*). [Dan. Pr. 2237.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*s*).)
In the matter of the —— Company.
And in the matter of the Mortgage Debenture Acts, 1865 and 1870.

Let (*&c.: Continue as in* Form 1078, *to* noon), on the hearing of an application on the part of A. B., of (*residence and addition*), that the

(*q*) See 28 & 29 Vict. c. 78; 33 & 34 Vict. c. 20. As to these Acts, see 2 Seton, 1124; and Land Registry Rules, 14 Nov. 1865: W. N. (1866), Part. II. 243: 12 Jur. N. S. Part II., 290.

(*r*) See 28 & 29 Vict. c. 78, s. 16. The application is made by an originating summons.

(*s*) See R. S. C. Ord. V. 9 (*b*).

above-named —— Company may be ordered to show cause why the entry in the Register of Securities of the said company of the (*Describe the security required to be discharged*), is not discharged from the charge of the mortgage debentures issued by the said company.

Dated (*&c.: Conclude as in* Form 1078, *including the foot note*).

2185.

Petition to appoint a receiver, at instance of owner of an overdue debenture (*t*). [Dan. Pr. 2238.]

(*Title: as in* Form 2184.)

To Her Majesty's High Court of Justice.

The humble petition of A. B., of (*residence and addition*).

Showeth as follows:

1. *Recite the mortgage debenture; as thus:* By an instrument under the common seal of the above-named —— Company, dated the ——, 188—, numbered ——, and duly signed in accordance with the provisions of the Mortgage Debenture Act, 1865, the said company, by virtue of the said Act, and in consideration of the sum of £—— paid to them by your petitioner, thereby charged all the registered securities of the company with the payment to him, his executors, administrators, and assigns, of the sum of £——, and interest thereon at the rate of £— per cent. per annum: such sum of £—— to be paid and payable to your petitioner, his executors, administrators, and assigns, at ——, on the —— day of ——, 188—: with interest on the same at the rate aforesaid, payable half-yearly, at the said place, on every —— day of ——, and —— day of ——; And the said company thereby undertook to pay the said sum of £——, and interest at the rate aforesaid, as above mentioned.

2. *Show that default has been made in payment of the principal, or interest.*

3. *Show that a demand of payment has been made in writing, and not complied with.*

Your petitioner therefore humbly prays, that some proper person may be appointed on behalf of your petitioner, and all other persons entitled to the mortgage debentures of the said company, to receive all the principal moneys, instalments, annuities, interest, and other moneys from time to time payable to the said company upon, or in respect of, their registered securities, and any cash, or other moneys in Court, on the account of the said company's mortgage debentures: until the principal and interest due on all the debentures issued by the said company: together with all costs: including the reasonable and proper charges of such receiver: shall have been fully paid; or until further order.

Or that (*Conclude as in* Form 40; *and add foot note*, Form 41).

(*t*) See 28 & 29 Vict. c. 78, ss. 42—47.

2186. Summons to appoint a receiver, at instance of owner of an overdue debenture (*u*). [Dan. Pr. 2238.]

(*Title and reference to the record: as in* Form 2184; *other formal parts as in* Form 1078.)

on the part of A. B., of (*residence and addition*), a debenture holder of the above-named company: that some proper person may be appointed on behalf of the applicant, and all other persons entitled (*Continue as in prayer of* Form 2185, *to* further order).

Section XXVII.—The County Courts Acts, 1865 and 1867 (*v*).

(*Dan. Pr.*, p. 2240.)

2187. Summons for payment to person entitled to a legacy or sum of money paid into Court (*w*). [Dan. Pr. 2240.]

(*See* Form 2152: *which can be readily adapted.*)

Section XXVIII.—Reduction of Capital and Shares—Companies Act, 1867 (*x*).

(*Dan. Pr.*, pp. 2241—2252, ccccxxvi.)

2188. Petition for order confirming reduction of capital (*y*). [Dan. Pr. 2241, 2243.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*z*).) [In the matter

(*u*) See note (*q*), *supra*. The application at Chambers should be by an originating summons.

(*v*) See for suits and matters in which the County Courts have jurisdiction, 28 & 29 Vict. c. 99, s. 1; 30 & 31 Vict. c. 142, ss. 9, 33; 31 & 32 Vict. c. 40, s. 12. As to removal of actions from or to a County Court, see Dan. Pr. 1901—1909, 1913—1918; and see Forms 1899—1920.

(*w*) See 28 & 29 Vict. c. 99, s. 5; Pitt Lewis, 562—564. For form of order for payment into Court, see County Court Rules, 1875, Sched. No. 217.

(*x*) See 30 & 31 Vict. c. 131; Ord. 21 Mar. 1868 (L. R. 3 Ch. xlix.); Buckley, 482—490; 2 Seton, 1462—1466. The provisions of the Companies Act, 1867, do not apply to a reduction of capital by the cancellation of shares which have not been taken or agreed to be taken by any person, where such cancellation is authorised by the regulations of the company as originally framed, or as altered by special resolution; such a reduction of capital may be effected without any application to the Court: Companies Act, 1877 (40 & 41 Vict. c. 26), s. 5. As to the power of the Court to require the company to publish the reasons for the reduction of capital or other information in regard thereto, see 40 & 41 Vict. c. 26, s. 4; *Re Llynvi and Ogmore Coal and Iron Co.*, 26 W. R. 55.

(*y*) See *Re Warrant Finance Co.*: petition presented 29 April, 1870, and filed 17 Aug. 1870; and see 30 & 31 Vict. c. 131, s. 11. An affidavit by the chairman of the company verifying generally the statements in the petition according to Form 2 given in the Gen. Ord. Nov. 1862, Sched. III. was held sufficient: *In re Mains Manufacturing Co.*, W. N. (1884), 171.

(*z*) See R. S. C. Ord. V. 9 (*d*).

In the matter of the W. F. Company, Limited and Reduced (*a*).

And in the matter of the Companies Acts, 1867 and 1877 (*b*).

To Her Majesty's High Court of Justice.

The humble petition of the W. F. Company, Limited and Reduced (*a*).

Showeth as follows:

1. The W. F. Company, Limited and Reduced (*a*), is a joint-stock company, formed and registered in England, under the provisions of the Companies Act, 1862.

2. The registered office of the company is situate at, *&c.*, in the City of London.

3. The company was formed by a memorandum of association, dated the —— day of ——, 188—: which was as follows (*Memorandum set out*).

4. By a special resolution passed on the —— day of ——, 188—, it was resolved that the name of the company should be changed to the W. F. Company, Limited.

5. As appears by the said memorandum of association, the nominal capital of the company is £2,000,000, divided into 40,000 shares of £50 each.

6. The company is governed by articles of association duly registered with the said memorandum of association: as the said articles of association have from time to time been altered by special resolution duly registered under the Companies Act, 1862.

7. The first clause of the said articles of association, as the same has been altered by a special resolution, contains words as follows: "The business of the company may be commenced when three-fourths of one-half of the capital of the company shall have been subscribed for, and the deposit of £5 per share paid thereon."

8. Three-fourths of one-half of the capital of the company were subscribed for; and the deposit of £5 per share was paid on the shares so subscribed for. The business of the company was duly commenced, and calls have been made: so that, inclusive of the said £5 per share deposit, the sum of £12 per share has been called up. The 26th clause of the said articles of association, as the same was, on or before the —— day of ——, 188—, altered by special resolution, contains words as follows: "The company may, by special resolution, so far modify the conditions contained in its memorandum of association as to reduce its capital to

(*a*) As to the addition "and reduced," see 30 & 31 Vict. c. 131, s. 10; 40 & 41 Vict. c. 26, s. 4; Dan. Pr. 2241. Where the reduction of the capital does not involve either the diminution of any liability in respect of unpaid capital, or the payment to any shareholder of any paid-up capital, it is not necessary before the presentation of the petition for confirming the reduction to add—and the Court may (if it thinks it expedient) dispense altogether with the addition of—the words "and reduced:" 40 & 41 Vict. c. 26, s. 4 (2).

(*b*) The petition, and all notices, affidavits, and other proceedings thereunder, must be intituled in the matter of the Companies Act, 1867, and of the company in question: Ord. 21 Mar. 1868, r. 2; Dan. Pr. 2243.

such an amount, and in such shares, as shall by the special resolution be specified."

9. At an extraordinary general meeting of the members of the company, duly convened, and held at the registered office of the company, situate at, *&c.*, in the City of London, on ——, the —— day of ——, 18—, the following resolution was duly passed—and at a subsequent general meeting of the members of the company, also duly convened and held at the same place on ——, the —— day of ——, 18—, the following special resolution was duly confirmed—that is to say: "That the memorandum of association shall be altered, by erasing therefrom the following: 'The nominal capital of the company to be £2,000,000, divided into 40,000 shares of £50 each;' and inserting therein the following: 'The nominal capital of the company to be £240,000, divided into 20,000 shares of £12 each'" (*c*).

Your petitioners therefore humbly pray, that an order may be made confirming the reduction of the capital of the company; and that for that purpose all proper directions may be given.

Or that (*Concluding as in* Form 40).

NOTE.—It is not intended to serve this petition upon any person.

2189. Motion paper to dispense with addition of words "and reduced" between presentation and hearing of petition (*d*). [Dan. Pr. 2244.]

Title: see Form 2188; *other formal parts: see* Form 36.

To move on behalf of the above-named Company, that the addition of the words "and reduced" after the name of the said Company may be dispensed with during the period which shall elapse between the presentation of the petition in this matter on the —— day of ——, 188—, and the hearing of the said petition.

2190. Summons for directions as to settling list of creditors (*e*). [Dan. Pr. 2244.]

Formal parts: see Form 43 *or* 1077.

on the part of the above-named company, for directions as to the proceedings to be taken for settling the list of their creditors entitled to object to the proposed reduction of the capital of the company, as in their petition presented in this matter on the —— day of ——, 188—, mentioned.

(*c*) See 30 & 31 Vict. c. 131, s. 9; 40 & 41 Vict. c. 26, s. 4. The minute is now required to show also the amount (if any) proposed to be deemed to have been paid up on each share at the date of the registration of the minute: 40 & 41 Vict. c. 26, s. 4.

(*d*) The Companies Act, 1877 (40 & 41 Vict. c. 26), s. 4 (2); *Re Langdale Chemical Manure Co., Limited*, 26 W. R. 434; *Re River Plate Fresh Meat Co., Limited*, W. N. (1885), 14: 33 W. R. 319.

(*e*) Where the reduction of the capital does not involve either the diminution of any liability in respect of unpaid capital, or the payment to any shareholder of any paid-up capital, the creditors of the company are not (unless the Court otherwise direct) entitled to object, nor is their consent required, to the reduction: 40 & 41 Vict. c. 26, s. 4 (1); but otherwise every creditor of the company is entitled to object to the reduction: 30 & 31 Vict. c. 131, s. 13; Dan. Pr. 2242. As to the

2191.

Order thereon (*f*). [Dan. Pr. 2244.]

Mr. Justice ——, (*Date*)
at Chambers.

In the matter of the —— Company, Limited and Reduced.
And in the matter of the Companies Act, 1867.

Upon the application of the petitioners by summons, dated the ——, 188—, and upon hearing the solicitor for the petitioners, and on reading the petition on the —— day of ——, 188—, preferred unto Her Majesty's High Court of Justice: it is ordered that an inquiry be made what were the debts, claims, and liabilities of or affecting the said company on the —— day of ——, 188—; and that notice of the presentation of the said petition be inserted in the (*Describe the newspapers, and the days on which the insertions are to be made* (*g*)); and that a list of the persons who were creditors of the said company on the said —— day of ——, and an office copy of the affidavit verifying the same, be left at the Chambers of the Judge on or before the —— day of —— (*h*).

2192.

Notice of presentation of the petition (*i*). [Dan. Pr. 2244.]

(*Title: as in the petition.*)

Notice is hereby given, that a petition for confirming a resolution reducing the capital of the above company from £—— to £——, was on the —— day of ——, 188—, presented to Her Majesty's High Court of Justice, and is now pending; and that the list of creditors of the company is to be made out as for the —— day of ——, 188—.

C. and D., of (*Place of business*),
[Agents for A. and B., of, *&c.*],
solicitors to the company.

2193.

Affidavit verifying list of creditors (*j*). [Dan. Pr. 2244.]

(*Title: as in the petition.*)

I, A. B., of, *&c.* (*k*), make oath and say, as follows:

1. The paper writing now produced and shown to me, and marked with the letter A., contains a list of the creditors of, and persons having claims upon, the said company on the —— day of ——, 188— (the

power of the Court to dispense with the consent of any creditor to the reduction, see 30 & 31 Vict. c. 131, s. 14; Dan. Pr. 2243. As to settling a list of the creditors who are entitled to object, see 30 & 31 Vict. c. 131, s. 13; Ord. 21 Mar. 1868, r. 4; Dan. Pr. 2244, 2245. The application for directions as to settling the list is made *ex parte*, by an ordinary summons after the petition has been presented.

(*f*) See Ord. 21 Mar. 1868, r. 4, and Sched. No. 1. For form of order, see 2 Seton, 1462, No. 2.

(*g*) The first insertion is not to be less than one calendar month before the day of the date fixed with reference to which the list of creditors is to be made out: Ord. 21 Mar. 1868, r. 5; Dan. Pr. 2244.

(*h*) See Ord. Mar. 1868, rr. 4—6.

(*i*) See Ord. 21 Mar. 1868, r. 5, and Sched. No. 2.

(*j*) See Ord. 21 Mar. 1868, rr. 6, 7, and Sched. No. 3.

(*k*) The affidavit is to be made by some officer or officers of the company competent to make the same: Ord. 21 Mar. 1868, r. 6.

date fixed by the order in this matter, dated the ——, 188— (*l*): together with their respective addresses, and the nature and amount of their respective debts or claims; and such list is, to the best of my knowledge, information, and belief, a true and accurate list of such creditors and persons having claims on the day aforesaid.

2. To the best of my knowledge and belief there was not, at the date aforesaid (*m*), any debt or claim which, if such date were the commencement of the winding-up of the said company, would be admissible in proof against the said company, other than and except the debts set forth in the said list. I am enabled to make this statement from facts within my knowledge as the (*State what office deponent holds in the company* (*n*)) of the said company, and from information derived upon investigation of the affairs and the books, documents, and papers of the said company (*o*).

Sworn (*&c.: see* Form 9).

A.

(*Title: as in the petition.*)

This list of creditors, marked A., was produced and shown to A. B., and is the same list of creditors as is referred to in his affidavit sworn before me this —— day of ——, 188—:

X. Y., *&c.*

2194. List of creditors: being exhibit A. to Form 2193 (*p*). [Dan. Pr. 2244, 2245.]

Names, addresses, and description of the creditors.	Nature of debt or claim.	Amount of debt or claim.

2195. Notice by post to creditors entered in list (*q*). [Dan. Pr. 2245.]

(*Title: as in the petition.*)

To (*Name of creditor*).

You are requested to take notice, that a petition has been presented to Her Majesty's High Court of Justice to confirm a special

(*l*) See Form 2191; and note (*f*), *supra*.

(*m*) That is, the date fixed by the order with reference to which the list of creditors is to be made out.

(*n*) See note (*k*), *supra*.

(*o*) See Ord. 21 Mar. 1868, r. 7.

(*p*) As to inspecting and taking extracts from the list, see Ord. 21 Mar. 1868, r. 8; as amended by Ord. 2 Mar. 1869; Dan. Pr. 2245.

(*q*) See Ord. 21 Mar. 1868, r. 9, and Sched. No. 4. The notice is to be sent through the post, in a prepaid letter, addressed to the creditor at his last known address or place of abode, within seven days after the filing of the affidavit, or such further time as the Judge may allow, *Ibid.*

resolution of the above company, for reducing its capital to £—— (*r*); and that in the list of persons admitted by the company to have been, on the —— day of ——. 188—, creditors of the company, your name is entered as a creditor for (*Here state the amount of the debt or nature of the claim*).

If you claim to have been on the last mentioned day a creditor to a larger amount than is stated above, you must, on or before the —— day of ——, 188—, send in the particulars of your claim, and the name and address of your solicitor (if any), to the undersigned, at (*State where*). In default of your so doing, the above entry in the list of creditors will, in all the proceedings under the above application to reduce the capital of the company, be treated as correct.

Dated this —— day of ——, 188—.

A. B.,
Solicitor for the said company.

2196.

Notice by advertisement of the list of creditors (*s*). [Dan. Pr. 2246.]

(*Title: as in the petition.*)

Notice is hereby given, that a petition has been presented to Her Majesty's High Court of Justice for confirming a resolution of the above company, for reducing its capital from £—— to £——. A list of the persons admitted to have been creditors of the company on the —— day of ——, 188—, may be inspected at the offices of the company at (*State where*), or at the office of (*State where else*), at any time during usual business hours, on payment of the charge of one shilling.

Any person who claims to have been on the last mentioned day, and still to be, a creditor of the company, and who is not entered on the said list, and claims to be so entered, must on or before the —— day of ——, 188—, send in his name and address, and the particulars of his claim, and the name and address of his solicitor (if any), to the undersigned, at (*State where*): or, in default thereof, he will be precluded from objecting to the proposed reduction of capital (*t*).

Dated this —— day of ——, 188—.

A. B.,
Solicitor for the said company.

(*r*) *Quære*, "from £—— to £——;" compare Ord. 21 Mar. 1868, r. 9, with *Ibid.*, r. 10, and Sched. Nos. 2, 5.

(*s*) See 30 & 31 Vict. c. 131, s. 13; Ord. 21 Mar. 1868, r. 10, and Sched. No. 5. The notice is to be published at such times, and in such newspapers, as the Judge directs, after the affidavit verifying the list has been filed: Ord. 21 Mar. 1868, r. 10.

(*t*) As to saving of rights of creditors who are ignorant of the proceedings, see 30 & 31 Vict. c. 131, s. 17; Dan. Pr. 2251.

2197.
Affidavit of result of notices, and verifying list of creditors (*u*). [Dan. Pr. 2246.]

(*Title: as in the petition.*)

We, C. D., of, *&c.*, the Secretary of the said company (*v*), E. F., of, *&c.*, the Solicitor of the said company, and A. B., of, *&c.*, the Managing Director of the said company (*v*), severally make oath and say, as follows:

I, the said C. D., for myself, say as follows:

1. I did, on the —— day of ——, 188—, in the manner hereinafter mentioned, serve a true copy of the notice now produced and shown to me, and marked B. (*w*), upon each of the respective persons whose names, addresses, and descriptions appear in the first column of the list of creditors (*x*) marked A., referred to in the affidavit of ——, filed on the —— day of ——, 188— (*y*) [except that in the copy notice so served the blanks now appearing in the heading and body of the said exhibit B. were, at the time of the aforesaid service therof, filled up with the name of the person on whom the said copy notice was so served, and with the amount of his debt, or nature of his claim, in the same words and figures as the said name and amount or nature of claim are set forth in the said list of creditors marked A.] (*z*).

2. I served the said respective copies of the said notice by putting such copies respectively duly addressed to such persons respectively, according to their respective names and addresses appearing in the said list (being the last known addresses or places of abode of such persons respectively), and with the proper postage stamps affixed thereto as prepaid letters, into the Post Office Receiving House, No. ——, in —— Street, in the county of ——, between the hours of ——, and —— of the clock in the ——noon of the said —— day of ——, 188— (*a*).

And I, the said E. F., for myself say as follows:

3. *If notice issued under rule* 10 (*b*) *say:* A true copy of the notice now produced and shown to me, and marked C. (*c*), has appeared in the —— of the —— day of ——, 188—, (*&c: Describe the newspapers in, and the dates on, which the notice has appeared*).

4. I have, in the paper writing now produced and shown to me, and

(*u*) See Ord. 21 Mar. 1868, r. 11, and Sched. No. 6. The affidavit is to be filed: and an office copy thereof, and the lists exhibited thereto, are to be left at Chambers: within such time as the Judge shall direct, *Ibid.*

(*v*) Or other competent officer or officers of the company: see Ord. 21 Mar. 1868, r. 11.

(*w*) See Form 2195. Exhibit the notice. For form of memorandum of exhibit, see Form 28.

(*x*) See Form 2194.

(*y*) See Form 2193.

(*z*) The words between brackets are omitted in Form 6 in Sched. to Ord. of 21 Mar. 1868; but appear to be necessary, whenever a circular notice is made use of.

(*a*) See note (*q*), *supra.*

(*b*) See Form 2196, and note (*s*), *supra.*

(*c*) See Form 2196. Exhibit the notice. For form of memorandum of exhibit, see Form 28.

marked D. (*d*), set forth a list of all claims, the particulars of which have been sent in to me, pursuant to the said notice B. now produced and shown to me (*e*), by persons claiming to be creditors of the said company for larger amounts than are stated in the list of creditors marked A., referred to in the said affidavit of ——, filed on the —— day of ——, 188— (*f*).

5. *If notice issued under rule* 10 (*g*), *add:* I have, in the paper writing now produced and shown to me, marked E., set forth a list of all claims, the particulars of which have been sent in to me, pursuant to the notice referred to in the third paragraph of this affidavit, by persons claiming to be creditors of the said company on the —— day of ——, 188—, not appearing on the said list of creditors, marked A., and who claim to be entered thereon.

And we (the said) C. D. and A. B., for ourselves, say as follows:

6. We have in the first part of the said paper writing marked D. (*d*) (now produced and shown to us), and also in the first part of the said paper writing marked E. (*h*) (also produced and shown to us), respectively set forth such of the said debts and claims as are admitted by the said company to be due wholly or in part, and how much is admitted to be due in respect of such of the same debts and claims respectively as are not wholly admitted.

7. We have, in the second part of each of the said paper writings respectively marked D. and E., set forth such of the said debts and claims as are wholly disputed by the said company.

8. In the said exhibits D. and E. are distinguished such of the debts, the full amounts whereof are proposed to be set apart and appropriated in such manner as the Judge shall direct.

Sworn (*&c.: see* Form 10).

2198.

List of debts and claims sent in pursuant to notice by post to creditors: being exhibit D. to Form 2197. [Dan. Pr. 2246.]

D.

(*Title: as in the petition.*)

List of debts and claims of which the particulars have been sent in to E. F. by persons claiming to be creditors of the said company for larger amounts than are stated in list of creditors made out by the company.

This paper writing, marked D., was produced and shown to C. D., E. F., and A. B., respectively, and is the same as is referred to in their affidavit sworn before me this —— day of ——, 188—:

X. Y., *&c.*

(*d*) See Form 2198.
(*e*) See Form 2195.
(*f*) See Forms 2193, 2194.
(*g*) See Form 2196.
(*h*) See Form 2199.

FIRST PART.

Debts and claims wholly or partly admitted by the company.

Names, addresses, and descriptions of creditors (*i*).	Particulars of debt or claim.	Amount claimed.	Amount admitted by the company to be owing to creditor.	Debts proposed to be set apart and appropriated in full, although disputed.

SECOND PART.

Debts and claims wholly disputed by the company.

Names, addresses, and descriptions of claimants (*i*).	Particulars of claim.	Amount claimed.	Debts proposed to be set apart and appropriated in full, although disputed.

E.

2199. List of debts and claims sent in pursuant to notice by advertisement: being exhibit E. to Form 2197. [Dan. Pr. 2246.]

(*Title: as in the petition.*)

List of debts and claims of which the particulars have been sent in to Mr. E. F., by persons claiming to be creditors of the company, and to be entered on the list of the creditors made out by the company.

This paper writing marked E., was produced and shown to C. D., E. F., and A. B., respectively, and is the same as is referred to in their affidavit, sworn before me, this —— day of ——, 188—:

X. Y., *&c.*

FIRST PART.

(*Same headings as in Exhibit D.:* Form 2198.)

SECOND PART.

(*Same headings as in Exhibit D.:* Form 2198.)

(*i*) The names are to be inserted alphabetically.

2200.

Notice to creditor to prove debt or claim (*j*). [Dan. Pr. 2247.]

(*Title: as in the petition.*)

To (*Name of creditor*).

You are hereby required to come in and prove the debt claimed by you against the above company (*k*), by filing your affidavit and giving notice thereof to Mr. A. B. (*l*), the solicitor of the company, on or before the —— day of —— next; and you are to attend by your solicitor at the Chambers of Mr. Justice ——, at the Royal Courts of Justice, Strand, Middlesex, on the —— day of ——, 188— (*m*), at —— o'clock in the —— noon: being the time appointed for hearing and adjudicating upon the claim: and produce any securities or documents relating to your claim.

In default of your complying with the above directions, you will be precluded from objecting to the proposed reduction of the capital of the company.

Or, you will, in all proceedings relative to the proposed reduction of the capital of the company, be treated as a creditor for such amount only as is set against your name in the list of creditors.

Dated this —— day of ——, 188—.

A. B., of (*Place of business* (*n*)),
Solicitor for the said company.

2201.

Chief Clerk's certificate of result of the settlement of the list of creditors (*o*). [Dan. Pr. 2247.]

(*Title: as in the petition.*)

In pursuance of the direction given to me by Mr. Justice ——, I hereby certify that the result of the proceeding which has been taken in pursuance of the order made in this matter dated the —— day of ——, 188— (*p*), and the General Order of Court in that behalf, is as follows:

The petitioners, the said company, have attended by their solicitor.

A list of the persons who were creditors of the said company on the —— day of ——, 188— (*q*), has been settled, and is set forth in the first schedule hereto.

(*j*) See Ord. 21 Mar. 1868, r. 12, and Sched. No. 7. As to the costs of proof, or failure in proof, see Ord. 21 Mar. 1868, r. 13.

(*k*) Where part of the debt or claim is admitted by the company, the notice should be qualified accordingly: see Ord. 21 Mar. 1868, r. 12.

(*l*) As the notice is to be given to the company's solicitor, it should appear by the notice where he is to be found.

(*m*) Not less than *four clear days* after the notice: see Ord. 21 Mar. 1868, r. 12.

(*n*) See note (*l*), *supra*.

(*o*) See Ord. 21 Mar. 1868, r. 14: as amended by Ord. 2 Mar. 1869. Form 2201 is intended merely as a general guide to what is ordinarily required to be certified. A fee of 5*l*. is payable on settling the list of creditors in addition to the ordinary fee of 10*s*. on the certificate; both fees are collected by stamps: impressed on or adhesive to the certificate: Ord. as to S. C. Fees, 1884, Sched. Nos. 78, 81; Ord. as to Fees, &c., July, 1884, p. 9.

(*p*) See Form 2191.

(*q*) Date fixed by the order.

The said company have since paid off and discharged such of the said debts or claims as are set forth in the (first) part of the said schedule.

The said company are willing to set apart and appropriate the full amount of the debts or claims set forth in the (second) part of the said schedule. Such debts or claims amount together to £——.

The amounts of the debts or claims set forth in the (second) part of the said schedule have been fixed by inquiry and adjudication in manner provided by the 14th section of the Companies Act, 1867 (*r*).

The said company do not admit, and are not willing to set apart and appropriate, the debts or claims set forth in the (third) part of the said schedule, or any of them, or any part thereof respectively; and the amounts thereof respectively have not been fixed by inquiry and adjudication as aforesaid.

Such of the creditors of the said company as have consented in writing to the proposed reduction of the capital thereof are named in the —— part of the said schedule; and the sum of £—— is the total amount of the debts due from the said company to the creditors so consenting.

The sum of £—— is the total amount of the debts or claims of the said company, the payment of which has been secured in manner provided by the said 14th section of the Companies Act, 1867; and the names of the persons to whom the same are due, or by whom the same are claimed, are set forth in the —— column of the said schedule.

The debts or claims set forth in the second schedule hereto have been made against the said company, but have been wholly disallowed.

Pursuant to the said order of the —— day of ——, 188— (*s*), notice of the petition presented by the said company, for confirming a resolution reducing their capital has been inserted in (*State what newspapers, and of what dates*); and a list of the persons who were creditors of the said company on the —— day of ——, 188—: together with an office copy of the affidavit of A. B., filed the —— day of ——, 188—, verifying the same (*t*): was left at the chambers of the said Judge on the —— day of ——, 188— (*s*).

Notice of the said list of creditors has been inserted in the (*State what newspapers, and of what dates*).

The evidence produced on this proceeding consists of (*State what*).

Dated this —— day of ——, 188—.

R. M., Chief Clerk.

The first Schedule above referred to.

(*Divide the schedule into parts, with appropriate headings: to correspond with the certificate.*)

The second Schedule above referred to.

(*r*) See Dan. Pr. 2243.
(*s*) See Form 2191.
(*t*) See Forms 2193, 2194.

2202.

Note of the Chief Clerk that his certificate has become binding (*u*). [Dan. Pr. 2247.]

(*Title.*)

The certificate made by me of the result of the settlement of the list of creditors in this matter, pursuant to the order therein dated the —— 188—, has been filed and become binding,

Dated this —— day of ——, 188—.

R. M., Chief Clerk.

To the Senior Registrar of the Chancery Division.

2203.

Notice by advertisement of the day appointed for hearing the petition (*v*). [Dan. Pr. 2248.]

(*Title: as in the petition.*)

Notice is hereby given that a petition presented to Her Majesty's High Court of Justice on the —— day of ——, 188—, for confirming a resolution reducing the capital of the above company from £—— to £——, is directed to be heard before Mr. Justice ——, on the —— day of ——, 188—.

A. & B., of (*Place of business*),
[Agents for C. & D., of, *&c.*]
Solicitors for the company.

2204.

Notice by creditor of intention to oppose application (*w*). [Dan. Pr. 2248.]

(*Title: as in the petition.*)

To Mr. A. B., the solicitor of the above named company.

You are requested to take notice that it is my intention [*or*, the intention of my client Mr. E. F., of (*residence and addition*),] to appear at the hearing of the petition presented by the said company for confirming a resolution reducing their capital, and to oppose the application made thereby.

Dated this —— day of ——, 188—.

E. F., of (*residence and addition*),
a creditor of the said company.
[*or*, G. H., of (*Place of business*),
solicitor for the said E. F., a creditor
of the said company.]

(*u*) See Ord. 21 Mar. 1868, rr. 3, 15.

(*v*) See Ord. 21 Mar. 1868, r. 16, and Sched. No. 8. The notices are to be published at such times, and in such newspapers, as the Judge directs: r. 16, *sup.*

(*w*) See Ord. 21 Mar. 1868, r. 17. *Two clear days'* notice of the opposition must be given, *Ibid.* As to the costs of, and occasioned by, the appearance, see Ord. 21 Mar. 1868, r. 18; Dan. Pr. 2248.

2205.
Minute of order confirming resolution for reduction of capital (*x*). [Dan. Pr. 2249.]

Minute approved by the Court.

The nominal capital of the company is £240,000, divided into 20,000 shares of £12 each.

2206.
Notice by advertisement of the registration of order confirming reduction and minute (*y*). [Dan. Pr. 2249, 2250.]

(*Title: as in the order confirming the resolution.*)

Notice is hereby given that by an order of the High Court of Justice made by Mr. Justice ——, on the —— day of ——, 188—, in the above-mentioned matter, it was ordered that the special resolution passed at (*&c.: Repeating the terms of the order*) be confirmed. And it was ordered that the said company be at liberty (after the expiration of —— (*z*) from the date of the said order) to discontinue the addition to its name of the words "and reduced" [*or as may be: as in the order*].

And notice is hereby also given that the said order has been produced to the Registrar of Joint Stock Companies, and a copy thereof has been delivered to him: together with a minute approved by the said Judge, in the words and figures following; namely: (*State what*); and such order and minute have been duly registered by the said Registrar of Joint Stock Companies.

Dated this —— day of ——, 188—.

A. & B., of (*Place of business*),
Solicitors for the said company.

Section XXIX.—The Liquidation Act, 1868 (*a*).

(*Dan. Pr.*, pp. 2252, 2253.)

Section XXX.—The Metropolitan Board of Works (Loans) Act, 1869 (*b*).

(*Dan. Pr.*, p. 2253.)

(*b*) 32 & 33 Vict. c. 102, amended by 33 & 34 Vict. c. 24. By 32 & 33 Vict. c. 102, s. 40, the Court of Chancery was enabled to make general orders for regulating the practice under the Act. No such general orders have been issued.

(*x*) See 30 & 31 Vict. c. 131, ss. 15, 16; 40 & 41 Vict. c. 26, s. 4. For forms of order, see 2 Seton, 1462, No. 1: 1463, No. 3. The minute forms a schedule to the order: 2 Seton, 1462. A copy of the order and minute must be delivered to the Registrar of Joint-Stock Companies, who will register them.

(*y*) See 30 & 31 Vict. c. 131, s. 15; Ord. 21 Mar. 1868, r. 20. The advertisement of the registration of the order and of the minute cannot be dispensed with: *Re London Steamboat Co.*, W. N. (1883), 123: 31 W. R. 781.

(*z*) As to this period, see Dan. Pr. 2250, 2251; 2 Seton, 1464; Buckley, 485.

(*a*) See 31 & 32 Vict. c. 68.

Section XXXI.—The Felons' Property Act (*c*).

(*Dan. Pr.*, pp. 2254, 2255.)

2207. Summons, for an account by the administrator or interim curator of a convict's property (*d*). [Dan. Pr. 2254.]

188—. B. No. ——.

In the High Court of Justice.

Chancery Division.

(*Name of Judge* (*e*).)

In the matter of the property of A. B., a convict.

And in the matter of the Act 33rd and 34th Victoria, chapter 23, intituled "An Act to abolish forfeitures for treason and felony, and to otherwise amend the law relating thereto."

Let (*&c.: Proceed as in* Form 1078, *to* noon), on the hearing of an application on the part of Her Majesty's Attorney-General:

Or, of C. D., of (*residence and addition*), who claims to be the heir-at-law [*or*, next of kin] of the above-named A. B.—*or as may be* (*f*):

that, pursuant to section 28 of the above-mentioned Act, E. F., the administrator [*or*, interim curator] appointed under the said Act of the property of the above-named A. B. (*or other person who, without legal authority, shall have possessed himself of any part of the property of the convict*), may be ordered to account for his receipts and payments in respect of the property of the said A. B.; and that all proper consequential directions may be given.

Dated (*&c.: Conclude as in* Form 1078; *including the foot note*).

Section XXXII.—The Life Assurance Companies Acts, 1870 to 1872 (*g*).

(*Dan. Pr.*, pp. 2255—2262.)

(*g*) 33 & 34 Vict. c. 61; 34 & 35 Vict. c. 58 (repealed by 46 & 47 Vict. c. 39); 35 & 36 Vict. c. 41. See Buckley's Companies Acts, 534—561; Board of Trade Rules, 28 Aug. 1872.

As to deposit in Court of cash securities, by a company commencing life assurance business, see 33 & 34 Vict. c. 61, s. 3; 34 & 35 Vict. c. 58, s. 1; Rules, Aug. 1872, rr. 2—4. As to investment of deposit, *Ibid.* r. 4. As to payment out of the deposit, *Ibid.*, r. 6; and payment of interest, *Ibid.*, r. 7. Any application under the Rules is to be made by petition, *Ibid.*, r. 9. As to deposit in Court and dealing therewith the Forms under the Lands Clauses Acts (Forms 2090 to 2096), and the Parliamentary Deposits Act (Forms 2074 to 2080), can be readily adapted.

As to a petition for amalgamation of two or more insurance companies, see 33 & 34 Vict. c. 61, s. 14; Dan. Pr. 2257. For outline of a petition for such purpose, see Palmer's Company Precedents, 374.

(*c*) See 33 & 34 Vict. c. 23. As to this Act, see Dan. Pr. 97—100.

(*d*) See 33 & 34 Vict. c. 23, s. 28. The application is made by originating summons.

(*e*) See R. S. C. Ord. V. 9 (*b*).

(*f*) As to the persons who may apply, see 33 & 34 Vict. c. 23, s. 28.

As to the winding up of a life assurance company not complying with the requirements of the Life Assurance Companies Act, 1870, see 33 & 34 Vict. c. 61, s. 18; Dan. Pr. 2258. As to other circumstances under which such company may be wound up by the Court, see 33 & 34 Vict. c. 61, s. 21; Dan. Pr. 2258, 2259; Buckley, 540—542. As to the special fiat on the petition for winding up, see Dan. Pr. 2259; Buckley, 541.

As to reduction of contracts by order of the Court, where the company has been proved to be insolvent, see 33 & 34 Vict. c. 61, s. 22; Dan. Pr. 2259; Buckley, 542.

As to the winding up of a subsidiary company, where the principal company is being wound up by or under the supervision of the Court, see 35 & 36 Vict. c. 41, s. 4; Dan. Pr. 2260, 2261; Buckley, 554—556.

Section XXXIII.—The National Debt Act, 1870 (*h*).

(*Dan. Pr.*, pp. 2262—2264, ccccxxvi.)

2208. Petition for the re-transfer of stock, and payment of dividends (*i*). [Dan. Pr. 2262.]

In the High Court of Justice,

Chancery Division.

(*Name of Judge* (*j*).)

Ex parte E. A. S., W. A. S., F. H. W., and A. E. W. [*or as may be*].

In the matter of the National Debt Act, 1870.

To Her Majesty's High Court of Justice.

The humble petition of E. A. S., of, *&c.*, W. A. S., of, *&c.*, F. H. W., of, *&c.*, and A. E. W., of, *&c.*

Showeth as follows:

1—6. (*Statements showing that a sum of £266 consolidated £3 per cent. annuities was in* 1803 *purchased in the names of the trustees of a marriage settlement, upon certain trusts.*)

7. The dividends upon the said annuities were duly received by the said trustees, and the survivor of them, down to and including the dividend due in respect thereof in the month of July, 1812: since which year no dividends have been received in respect thereof; and in the year 1822, in consequence of the dividends being unclaimed, the said annuities, and the dividends then due thereon were, in pursuance of the provisions of the said Act of Parliament (*k*), carried over, and have

(*h*) See 33 & 34 Vict. c. 71, s. 55. The former Unclaimed Stock Acts (56 Geo. III. c. 60, s. 5; 8 & 9 Vict. c. 62; 24 & 25 Vict. c. 3, s. 8) are repealed by the Statute Law Revision Act, 1870 (33 & 34 Vict. c. 69), s. 1, and Sched.: see 2 Seton, 1512—1515.

(*i*) *Re Sanford:* petition presented under, and intituled in, the 56 Geo. III. c. 60 (now repealed), and filed 22 Mar. 1867. For the order thereon, see V.-C. W. 23 Feb. 1867. Reg. Lib. B. 584; and see S. C., W. N. (1867), 77. For form of order, see 2 Seton, 1512, No. 2. For forms of order for inquiry as to title, and for transfer and payment to a second claimant, see 2 Seton, 1512, Nos. 1, 3: 1513, No. 4. A claimant whose petition has been dismissed cannot present, without the leave of the Court, another petition, although he alleges that he has obtained further evidence in support of his claim: *Re May*, 25 Ch. D. 231: 32 W. R. 337; S. C. W. N. (1885), 11. As to enquiring into the beneficial interest of the parties claiming, see *Ex parte Roskrow*, W. N. (1885), 3.

(*j*) See R. S. C. Ord. V. 9 (*d*).

(*k*) 56 Geo. III. c. 60.

ever since been, and are now standing, to the account of the Commissioners for the Reduction of the National Debt, in the books of the Governor and Company of the Bank of England.

8—17. (*Statements showing that the petitioners F. H. W. and A. E. W. were the representatives of the last surviving trustee of the marriage settlement; and that the other petitioners were beneficially entitled to the fund.*)

Your petitioners therefore humbly pray, that: upon payment by your petitioners E. A. S. and W. A. S. to her Majesty's Attorney-General and the Commissioners for the Reduction of the National Debt, of their costs of this application and relating thereto: to be taxed in case the parties differ: the said sum of £266 consolidated £3 per cent. annuities, now standing to the account of the Commissioners for the Reduction of the National Debt, in the books of the Governor and Company of the Bank of England, with all dividends accrued due thereon since the transfer of such stock to the said Commissioners, and the accumulations, if any, thereof, may be transferred and paid by the said Commissioners to your petitioners F. H. W. and A. E. W.: they undertaking to apply the same according to the trusts affecting the same.

Or that (*Concluding as in* Form 40; *and footnote,* Form 41).

Section XXXIV.—The Tramways Act, 1870 (*l*).

(*Dan. Pr.*, pp. 2264—2271.)

2209.

Request for direction for lodgment of cash (*m*). [Dan. Pr. 2265, 2266]

High Court of Justice,
Chancery Division.

Ex parte the A. B. Tramway.

Ledger Credit. } ——.
(Fol. ——). }

The Paymaster is hereby requested to issue a direction to the Bank to receive from (*Here insert the name or names of the person or persons named in the warrant of the Board of Trade* (*n*)) the sum of £——, to be lodged pursuant to the Tramways Act, 1870, Rule XX. of the Board of Trade Rules thereunder, dated August, 1884, and a warrant of the Board of Trade dated ——, 188—.

(*Signature*) ——.

(*l*) See 33 & 34 Vict. c. 78; 2 Seton, 1460, 1461; Sutton on the Tramways Acts; Board of Trade Rules, August, 1884, rr. xx.—xxiv.

(*m*) See 33 & 34 Vict. c. 78, s. 12; Board of Trade Rules, 1884, r. xx.; S. C. Funds Rules, 1884, r. 30, App. No. 5. A fee of 1*s.* is payable on the request by a stamp impressed thereon: Ord. as to S. C. Fees, 1884. Sched. No. 106; Ord. as to Fees, &c., July, 1884, p. 11. As to the forms of direction and certificate of receipt, see Forms 1727, 1728.

(*n*) See Board of Trade Rules, 1884, r. xx.

2210.
Request for direction for lodgment of securities (*o*).
[Dan. Pr. 2265, 2266.]

High Court of Justice,
Chancery Division.

Ex parte the A. B. Tramway.

Ledger Credit. } ——.
(Fol. ——.) }

Authority is hereby requested for the transfer by (*Here insert the name or names of the person or persons named in the warrant of the Board of Trade* (*p*)) to the account of the Paymaster-General for and on behalf of the Supreme Court of Judicature of £—— consolidated £3 per. cent. annuities: which securities are to be transferred pursuant to the Tramways Act, 1870, Rule XX. of the Board of Trade Rules thereunder dated August, 1884, and a warrant of the Board of Trade dated ——, 188—.

(*Signature*) ——.

2211.
Summons for investment of deposit, and payment of dividends (*q*).
[Dan. Pr. 2266.]

188—. B. No. ——.

In the matter of *Ex parte* the A. B. Tramway.
And in the matter of the Tramways Act, 1870.

Formal parts: see Form 1078.

on the part of A. B., of, *&c.*, and C. D., of, *&c.* (*the persons named in the warrant of the Board of Trade, or the majority or survivors of them* (*r*)), that the sum of £—— cash in Court to the credit of "*Ex parte* the A. B. Tramway" may be invested in consolidated £3 per cent. annuities [*or as may be*]; and that the dividends as they accrue thereon may be paid to the applicants, or to any one or more of them,

Or, to E. F., of, *&c.* (*s*),

until further order.

Or, if the summons is framed with a Pay Office schedule: that the funds in Court may be dealt with as directed in the schedule hereto (*t*).

2212.
Affidavit verifying signatures to summons.

(*See* Form 2079).

(*o*) See Board of Trade Rules, 1884, r. xx.; S. C. Funds Rules, 1884, r. 30, App. No. 6. As to the fee payable on the request, see note (*m*), *supra*. As to the forms of direction and certificate of transfer, see Forms 1731, 1732.

(*p*) See Board of Trade Rules, 1884, r. xx.

(*q*) See Board of Trade Rules, 1884, rr. xx., xxiv. The application is made by originating summons, *Ibid.*, r. xxiv.

(*r*) See Board of Trade Rules, 1884, rr. xx., xxiv.

(*s*) If the application is for payment to persons appointed by the depositors, the summons should be signed by the applicants: see note (*j*), at p. 900.

(*t*) The directions for payment will be contained in a payment schedule to the order: S. C. Funds Rules, 1884, r. 6.

2213.

Summons for payment out of cash deposit, or transfer out of stock, when tramway completed within prescribed time or when provisional order not confirmed (*u*). [Dan. Pr. 2266—2268.]

(*Title as in* Form 2211 ; *other formal parts as in* Form 1078.) on the part of A. B., of, *&c.*, and C. D., of, *&c.* (*the persons named in the warrant of the Board of Trade, or the majority or survivors of them*), that the sum of £—— cash [*or*, £—— consolidated 3 per cent. annuities] in Court to the credit of "*Ex parte* the A. B. Tramway" (*Add, if so :* being the proportionate part of the deposit fund paid [*or*, transferred] into Court in respect of the said tramway, certified as proper to be paid out by the secretary [*or*, assistant secretary] to the Board of Trade), may be paid [*or*, transferred] to the applicants [*or*, to E. F., of, *&c.* (*v*)].

Or, if the summons is framed with a Pay Office schedule : that the funds in Court may be dealt with as directed in the schedule hereto (*w*).

2214.

Affidavit verifying signatures to summons.

(*See* Form 2079.)

2215.

Affidavit verifying signature of Secretary or Assistant Secretary to Board of Trade (*x*).

Formal parts : as in Form 6.

1. I saw A. B., the secretary [*or*, assistant secretary] to the Board of Trade, sign the certificate or paper writing now produced and shown to me, and marked A. (*y*), and purporting to be (*State, shortly, what ; as thus :* a certificate dated ——, 188—, that the A. B. Tramway is fit for public traffic [*or as may be*]).

Or, 1. I know and am well acquainted with the handwriting of (*&c. : as above*), having seen him write.

2. The name or signature "——" set and subscribed to the said paper writing marked "A."

Or, to the paper writing now produced, *&c.*, and purporting to be, *&c.* (*as above*),

is of the proper handwriting of the said A. B.

2216.

Summons for inquiries and payment out of cash deposit, or transfer out of stock, when tramway not completed within prescribed time (*z*). [Dan. Pr. 2266—2268.]

(*Title as in* Form 2211 ; *other formal parts as in* Form 1078.) on the part of the Board of Works for the W—— district [*or as may be*] (*road authority*),

Or, the solicitor for the affairs of Her Majesty's Treasury,

Or, Y. Z., the official liquidator [*or*, the receiver of the property and effects] of the A. B. Tramway Company,

(*u*) See Board of Trade Rules, 1884, rr. xxiii., xxiv. The application is made by originating summons, *Ibid.*, r. xxiv.

(*v*) See note (*s*), *supra.*

(*w*) See note (*t*), *supra.*

(*x*) See Board of Trade Rules, 1884, rr. xxiii., xxiv.

(*y*) Exhibit it. For form of memorandum of exhibit, see Form 28.

(*z*) See 2 Seton, 1461 ; Board of Trade Rules, 1884, rr. xxi., xxii. As to penalties imposed when the tramway is promoted by persons possessed of a tramway already

that, subject to all proper inquiries (*a*) being made, the sum of £—— consolidated 3 per cent. annuities [*or as may be*] in Court to the credit of "*Ex parte* the A. B. Tramway,"

If the application is by the Treasury solicitor, proceed as follows: may be sold; and that the proceeds thereof, together with the sum of £—— cash in Court to the same credit, may, upon the requisition of Her Majesty's Paymaster-General, be transferred to the account of Her Majesty's Paymaster-General "Cash Account" at the Bank of England.

If the application is by a road authority, or an official liquidator or receiver, proceed as follows: and the sum of £—— cash in Court to the same credit, may be respectively transferred and paid to the applicant. (*Add, in the case of a liquidator or receiver:* to be applied by him as assets of the said company for the benefit of the creditors thereof).

Address:

To C. D. and E. F. (*the depositors*).

If the application is by a road authority, add:

And to the solicitor for the affairs of Her Majesty's Treasury.

If the promoters are a company, and such company is insolvent, and has been ordered to be wound up, and the application is either by a road authority or the Treasury solicitor, add:

And to Y. Z., the official liquidator [*or*, the receiver of the property and effects] of the A. B. Tramway Company.

If the application is by an official liquidator or receiver, add:

And to the solicitor for the affairs of Her Majesty's Treasury.

2217. Advertisement for road authorities claiming compensation (*b*). [Dan. Pr. 2267.]

Pursuant to an order of the Chancery Division of the High Court of Justice, dated the —— day of ——, 188—, and made in the matter of *Ex parte* the A. B. Tramway, and in the matter of the Tramways Act, 1870, any road authorities who have incurred expense in taking up any

opened for public traffic, who fail to complete the new tramway within the prescribed time, and the application of such penalties, see *Ibid.*, r. xxi. The application is made by originating summons, *Ibid.*, r. xxiv. It cannot be made by the depositors: who, when the deposit has become applicable under r. xxii., have no further claim upon it. It has, however, been the practice to make them respondents. The application can be made by road authorities entitled to compensation —or, subject to providing for such compensation, by the Treasury Solicitor, claiming forfeiture—or, if the promoters are a company, and such company is insolvent and has been ordered to be wound up, or a receiver has been appointed, by the official liquidator of the company or the receiver.

(*a*) For form of inquiries with respect to road authorities: and also for form of inquiries as to creditors, when the promoters are a company, and such company is insolvent, and has been ordered to be wound up, or a receiver has been appointed: see Form 2087.

(*b*) See Board of Trade Rules, 1884, r. xxii. This rule provides for notice being given in the Gazette only; but the advertisement is not uncommonly inserted in London and local newspapers as well.

tramway, or materials connected therewith, placed by the A. B. Tramway Company in or on any road vested in or maintainable by such road authorities respectively, or in making good any damage caused to such roads by the construction or abandonment of such tramway, are on or before (*Continue as in* Form 2088, *to the end*).

2218.

Advertisement for creditors when the promoters are an insolvent company, ordered to be wound up or having had a receiver appointed (*e*). [Dan. Pr. 2267.]

Pursuant to an order of the Chancery Division of the High Court of Justice, dated the —— day of ——, 188—, and made in the matter of *Ex parte* the A. B. Tramway, and in the matter of the Tramways Act, 1870, creditors claiming debts and liabilities affecting a sum of £—— consolidated 3 per cent. annuities [*or as may be*] in Court to the credit of "*Ex parte* the A. B. Tramway": which sum was paid into Court, pursuant to the rules made by the Board of Trade under the Tramways Act, 1870, in respect of the application for a provisional order authorising the construction of the A. B. Tramway: are on or before (*Continue as in* Form 2089, *to the end*).

Section XXXV.—Infants Custody Act, 1873 (*d*).

(*Dan. Pr.*, pp. 2269—2271, ccccxxvii.)

2219.

Petition of the mother for access and custody (*e*). [Dan. Pr. 2269.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*f*).)

In the matter of A. B., C. B., and D. B., infants.
And in the matter of the Act 36th Victoria, chapter 12, intituled "An Act to amend the law as to the custody of infants."

To Her Majesty's High Court of Justice.

The humble petition of E. B., wife of F. B., of (*address and description*) (*g*).

Showeth as follows:

1. *State the marriage of the infants' parents, and the issue thereof.*

2. *State in whose custody the children now are, and the grounds for seeking the interference of the Court.*

(*c*) See 2 Seton, 1460, 1461; Board of Trade Rules, 1884, r. xxii.; and note (*b*), *supra*.

(*d*) See 36 & 37 Vict. c. 12; Morgan, 97—99; 2 Seton, 751; *Re Taylor*, 4 Ch. D. 157; *Re Elderton*, 25 Ch. D. 220: 32 W. R. 227.

(*e*) See 36 & 37 Vict. c. 12, s. 1. For form of order, see 2 Seton, 746, No. 3.

(*f*) See R. S. C. Ord. V. 9 (*d*).

(*g*) The Act 36 & 37 Vict. c. 12, s. 1, provides for the application being made by the mother of the infant by her next friend; but, having regard to the provisions of the Married Women's Property Act, 1882 (45 & 46 Vict. c. 75), s. 1 (2), and R. S. C. Ord. XVI. 16, it would seem that a next friend will be no longer required: Dan. Pr. 2269, note (*b*). For form of order, see 2 Seton, 746, No. 3.

Your petitioner therefore humbly prays as follows:

1. That the said F. B. may be ordered to permit your petitioner to have access to the said infant A. B., at such times and subject to such regulations as to this honourable Court shall seem proper.

2. That the said F. B. may be ordered to deliver the said infant C. B. into the hands of your petitioner, and that the said C. B. may be ordered to remain in or under the custody or control of your petitioner until the said C. B. shall attain the age of sixteen years: subject to such regulations as to this honourable Court shall seem proper.

3. That the said infant D. B. may be ordered to remain in or under the custody or control of your petitioner until the said D. B. shall attain the age of sixteen years: subject to such regulations as to this honourable Court shall seem proper.

4. That the said F. B. may be ordered to pay the costs of and incident to this application.

Or that (*Conclude as in* Form 40; *and add footnote*, Form 41).

SECTION XXXVI.—THE CONSOLIDATED FUND (PERMANENT CHARGES REDEMPTION) ACT, 1873 (*h*).

(*Dan. Pr.*, pp. 2271, 2272, ccccxxvii.)

2220. Summons to confirm contract for sale of an annuity (*i*).

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*ii*).)

In the matter of an annuity granted to (*State whom*).

And in the matter of the Consolidated Fund (Permanent Charges Redemption) Act, 1873.

Let all parties (*&c.: Proceed as in* Form 1078, *down to* application), on the part of A. B., of (*address and description*):

1. That the contract dated the —— day of ——, 188—, made between (*State whom*), for the redemption of the annuity (*Describe it, as in agreement*) may be confirmed.

2. That the Lords Commissioners of Her Majesty's Treasury may be at liberty on or before the —— day of ——, 188—, to pay the sum of £—— (*Purchase-money*) into Court, to the credit of "*Ex parte* A. B. In the matter of the Consolidated Fund (Permanent Charges Redemption) Act, 1873."

3. That it may be referred to the Taxing Master to tax the applicant

(*h*) See 36 & 37 Vict. c. 57.

(*i*) See 36 & 37 Vict. c. 57, ss. 2, 5. An application under this Act may be made by originating summons, *Ibid.*, s. 5. As to the application of the purchase-money see 36 & 37 Vict. c. 57, s. 3.

(*ii*) See R. S. C. Ord. V. 9 (*b*).

and (*Name any other persons entitled to their costs*) their costs of this application; and that such costs when taxed may be paid out of the said sum of £——, when so paid into Court as aforesaid.

4. That the residue of the said sum of £—— may be invested in consolidated £3 per cent. annuities [*or as may be*], and that the dividends as they accrue thereon during the life of the applicant A. B. may be paid to the applicant A. B. until further order.

Dated (*&c.: Conclude as in* Form 1078, *including the footnote*).

Section XXXVII.—The Artizans and Labourers Dwellings Improvement Act, 1875 (*j*).

(*Dan. Pr.*, pp. 2272—2274, ccccxxvii.)

(*j*) 38 & 39 Vict. c. 36. As to payment of compensation into Court where the claimant is under disability, see 38 & 39 Vict. c. 36, Sched. r. 20; where claimant has not made out his title, or refuses to accept a certificate under the Act (see rr. 14—19) of the amount of compensation, *Ibid.* r. 21. The payment into Court will, in either case, be made as provided by The Lands Clauses Consolidation Act, 1845 (8 & 9 Vict. c. 18), as to which see Forms 2090 to 2092. Compensation paid into Court will be applied in the same manner as under the Lands Clauses Act, as to which see Dan. Pr. 2138, 2153, 2154; and Forms 2093 to 2096. As to enforcing delivery of a certificate, see Dan. Pr. 2273; 38 & 39 Vict. c. 36, Sched. r. 23. The application is made by petition. As to entry by the local authority on lands on making deposit, see Dan. Pr. 2273; 38 & 39 Vict. c. 36, Sched. r. 24. As to the application of money deposited, see Dan. Pr. 2274; 38 & 39 Vict. c. 36, Sched. r. 25. The application is made by petition.

Section XXXVIII.—The Local Loans Act, 1875 (*k*).

(*Dan. Pr.*, p. 2275.)

(*k*) 38 & 39 Vict. c. 83. As to an application for rectification of the register of securities, see *Ibid.*, s. 25. The application will be made by originating summons.

Section XXXIX.—The Land Transfer Act, 1875 (*l*).

(*Dan. Pr.*, pp. 2276—2279.)

(*l*) 38 & 39 Vict. c. 87; Ord. 24 Dec. 1875. As to registering land with an absolute title, see ss. 5, 6; as to power of the Court to inhibit registered dealings, see s. 57; as to a case for the opinion of the Court being stated by the registrar, see ss. 74, 75; as to the intervention of the Court in the case of persons under disability, see ss. 76, 77; as to the power of the Court in a suit for specific performance, relating to registered land, to call upon parties having registered rights to appear and show cause why the contract should not be specifically performed, see s. 93; and as to costs in such case, see s. 94; as to rectifying the register by order of the Court, see ss. 95—97. All applications to the Court under the Act must be made to the Chancery Division (s. 114); by summons in Chambers; Ord. 24 Dec. 1875, r. 59. As to the time for appealing, *Ibid.*

SECTION XL.—THE CUSTOMS CONSOLIDATION ACT, 1876 (*m*).

(*Dan. Pr.*, pp. 2279, 2280.)

(*m*) 39 & 40 Vict. c. 36. As to applications to rectify the register, see *Ibid.*, s. 44. An application under this Act is made by originating summons.

SECTION XLI.—THE SETTLED ESTATES ACT, 1877 (*n*).

(*Dan. Pr.*, pp. 2281—2312, ccccxxvii.)

2221. Petition for order vesting general powers of leasing in trustees (*o*). [Dan. Pr. 2296, 2297.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*p*).)

In the matter of estates settled by G. J. C. [*or*, by G. J. C. and others] by will [*or*, by deed] dated the —— day of ——, 188—, consisting of certain lands [*or*, messuages or tenements] in C., in the parish of R., in the county of C.

And in the matter of the Settled Estates Act, 1877 (*q*).

To Her Majesty's High Court of Justice.

The humble petition of F. R. C., of (*address and description*) (*r*).

Showeth as follows:

1. *State the instrument or instruments whereby the property proposed to be dealt with by the petition stands limited to or in trust for several persons by way of succession* (*s*), *setting out a detailed description of such property, or referring to a schedule to the petition, or to a plan annexed to the petition, which contains a detailed description of such property sufficient to identify the same* (*t*).

(*n*) See 40 & 41 Vict. c. 18; Settled Estates Act Orders, 1878; 2 Seton, 1474—1509. As to costs of proceedings under the Act, see Morgan & Wurtzburg, 330—332. As to the settlements to which the Act extends, see 40 & 41 Vict. c. 18, s. 57.

(*o*) As to leases of settled estates, see 40 & 41 Vict. c. 18, ss. 4—15, 34—37, 46—48; 2 Seton, 1492—1496. As to the evidence to be adduced in support of an application to vest powers of leasing in trustees, see 40 & 41 Vict. c. 18, s. 11; Orders, 1878, rr. 15, 16. As to indorsement on the settlement or otherwise of notice of the exercise of the powers under the Act, see 40 & 41 Vict. c. 18, s. 33. For forms of orders with regard to leases, see 2 Seton, 1485—1492, Nos. 1—8.

(*p*) See R. S. C. Ord. V. 9 (*d*).

(*q*) As to the title of petitions and other proceedings under the Act, see Orders, 1878, r. 2. For form of title, see Orders, 1878, App. No. 1.

(*r*) See Orders, 1878, r. 31. As to the person who may petition the Court to exercise its powers, see 40 & 41 Vict. c. 18, ss. 23, 54; Dan. Pr. 2290, 2311; 2 Seton, 1478, 1479. As to the persons whose consent to the application is required, and as to dispensing with such consent, see 40 & 41 Vict. c. 18, ss. 24—29, 49; Dan. Pr. 2290—2296, 2305; 2 Seton, 1479—1483.

(*s*) See 40 & 41 Vict. c. 18, s. 2.

(*t*) See Orders, 1878, r. 2.

2. *Show in whom any beneficial estate or interest under or by virtue of the settlement is vested at the time of the application.*

3. *State such facts as may be necessary to enable the Court to ascertain the nature, value, and circumstances of the estate, and the terms and conditions on which leases thereof ought to be authorised* (*u*).

4. *Show that it will be for the benefit of the persons interested in the settled estates, and consistent with a due regard for their interests therein, that general powers of granting leases for the terms proposed should be vested in the trustees for the time being: see the prayer.*

5. Your petitioner is advised that, under the circumstances hereinbefore mentioned, such powers cannot be obtained without the assistance of this Court.

6. No application has been made to either House of Parliament for the purpose of effecting the object of this petition, or any similar object (*v*).

7. Your petitioner may be served with any order of this Court, or of the Judge in Chambers, or any notice relating to the subject of this petition, at the office of your petitioner's solicitors, Messrs. W., Y. & W., situate at, *&c.* (*w*).

Your petitioner therefore humbly prays, as follows:

1. That for the purposes hereinbefore mentioned, an order may be made vesting in the said H. A. and J. T., as the trustees of the said will, and in the trustees or trustee thereof for the time being, or in such other persons as to this honourable Court shall seem meet, general powers of granting building leases for terms of years not exceeding —— years in possession, and of entering into and making preliminary contracts to grant such leases, of all or any parts or part of the several pieces or parcels of ground and hereditaments, situate in the townships of C. and R., mentioned in the title or heading of this petition: such leases and contracts for leases to be in conformity with the provisions of the said Act of Parliament, so far as such provisions may be applicable to each particular case, and subject to such conditions as to this honourable Court may seem meet.

2. That such provisions may be made, or directions given: either by way of appointment of new trustees of the said will, or otherwise: for the purpose of the exercise from time to time of such powers of leasing, and of entering into or making preliminary contracts as aforesaid, as to this honourable Court shall seem meet.

3. That the costs of your petitioner, and of all other persons served with, or properly appearing as respondents to, this petition, of this application, and incident thereto, may be taxed by the Taxing Master; and that the amount of such costs, when taxed, may be a charge upon all or a sufficient part of the said

(*u*) See 40 & 41 Vict. c. 18, s. 11.
(*v*) *Ibid.*, s. 32; Orders, 1878, r. 17; 2 Seton, 1478.
(*w*) See Orders, 1878, r. 31.

pieces or parcels of ground and hereditaments hereinbefore described (*x*).

Or that (*&c.: Conclude as in* Form 40; *and add footnote,* Form 41).

2222.

Petition for order authorising particular lease (*y*). [Dan. Pr. 2285, 2296, 2297.]

Proceed as in Form 2221, *down to* as follows:

1. & 2. *Same as paragraphs* 1 *and* 2 *of* Form 2221.

3. By an agreement dated the —— day of ——, 188—, and made between (*State the parties*), it was agreed, subject to the sanction thereto of this honourable Court being obtained, that (*Set out the material parts of the agreement for a lease*).

4. *State facts showing the nature, value, and circumstances of the estate, and enabling the Court to ascertain the terms and conditions on which a lease thereof ought to be authorised* (*z*).

5. It will be for the benefit of your petitioner, and of all other persons interested in the said settled estates, and consistent with a due regard for their interests therein, and your petitioner is desirous, that the said agreement should be carried into effect; but under the circumstances hereinbefore mentioned such agreement cannot be carried into effect without the assistance of this honourable Court.

6. & 7. *Same as paragraphs* 6 *and* 7 *of* Form 2221.

Your petitioner therefore humbly prays:

1. That the said conditional agreement, dated the —— day of ——, 188—, may be directed to be carried into effect.

2. That all proper provisions may be made, and directions given for effecting the purposes hereinbefore mentioned.

3. That the costs (*&c.: as in paragraph* 3 *of the prayer of* Form 2221 (*a*)).

Or that (*Conclude as in* Form 40; *and add footnote,* Form 41).

2223.

Petition for sale (*b*). [Dan. Pr. 2287, 2296, 2297.]

Proceed as in Form 2221, *down to* as follows:

1 & 2. *Same as paragraphs* 1 *and* 2 *of* Form 2221.

3. *State circumstances showing that a sale is proper and consistent with a due regard for the interests of all parties entitled under the settlement;*

(*x*) As to the costs of the application, see 40 & 41 Vict. c. 18, s. 41; 2 Seton, 1495.

(*y*) See 40 & 41 Vict. c. 18, ss. 10, 12; 2 Seton, 1494, 1495. For forms of order, see 2 Seton, 1491, Nos. 5, 6. As to the contents of orders under the Act, see Orders, 1878, rr. 23, 24; and as to contents of an order authorising a lease, *Ibid.*, r. 25.

(*z*) See 40 & 41 Vict. c. 18, s. 11.

(*a*) *Ibid.*, s. 41.

(*b*) As to the power of the Court to authorise sales of settled estates, or any parts thereof, see 40 & 41 Vict. c. 18, ss. 16, 18, 19, 22, 34—37, 39, 40; 2 Seton, 1502—1505. The property cannot, it seems, be directed to be sold out of Court *Re Harvey*, 21 Ch. D. 123. For forms of orders, see 2 Seton, 1496—1501.

as thus: The value of lands in the vicinity of the said hereditaments so devised as aforesaid has of late years considerably increased, and your petitioner believes that the said hereditaments could now be most advantageously sold. Such a sale would be beneficial to all parties interested under the said will.

4 & 5. *Same as paragraphs* 6 *and* 7 *of* Form 2221.

Your petitioner therefore humbly prays, that the said estate called Green Land End, and the said peat moss, may be sold under the direction of this honourable Court; and that all proper inquiries may be made, and directions given, for effecting such purpose; and that the costs of, and incident to, this petition may be provided for (*c*).

Or that (*&c.: Conclude as in* Form 40; *and add footnote*, Form 41).

2224.

Affidavit that no previous application made to Parliament (*d*). [Dan. Pr. 2298.]

Title as in petition: see Form 2221; *other formal parts: see* Form 6.

1. I have perused the petition preferred in this matter by (*Names of petitioners*) to Her Majesty's High Court of Justice on the —— day of ——, 188—, under the provisions of the above-mentioned Act.

2. Neither the said petitioners, nor any or either of them, nor any other person entitled to, or interested in, the hereditaments proposed to be dealt with by the said petition, have or has heretofore applied to either House of Parliament for a private Act to effect the same or a similar object to that for which the sanction of this honourable Court is prayed by the said petition [*or as may be*].

3. (*Show means of knowledge.*)

2225.

Summons for appointment of guardian of an infant to make or consent to an application (*e*). [Dan. Pr. 2306.]

Title as in petition: see Form 2221; *other formal parts, as in* Form 43 *or* 1077.

on the part of the petitioners (*f*), that A. B., or some other proper person, may be appointed guardian of C. D., an infant, and that E. F., or some other proper person, may be appointed guardian of G. H., an infant, for the purpose of making, on behalf of such infants, an application

(*c*) See 40 & 41 Vict. c. 18, s. 41.

(*d*) *Ibid.*, s. 32; Orders, 1878, r. 17.

(*e*) See 40 & 41 Vict. c. 18, s. 49; Orders, 1878, r. 5; 2 Seton, 1479—1483. The application is made by the petitioner, and the summons must be served upon the parent, testamentary guardian, or guardian appointed by the Court of Chancery, or the Chancery Division of the High Court of Justice, of the infant, if there be any such parent or guardian, unless the Court or Judge shall dispense therewith: Orders, 1878, r. 8. As to the evidence in support of the application to appoint a guardian, see *Ibid.*, r. 10. For form of summons, see *Ibid.*, App. No. 5. For form of order, see 2 Seton, 1474, No. 1.

(*f*) The application must be made by the petitioner: Orders, 1878, r. 5.

Or, if the infants are not petitioners, say: for the purpose of consenting, on behalf of such infants, to an application proposed to be made by a petition presented on the —— day of ——, 188—, by the above-named applicants for an order in accordance with the prayer of such petition.

If the infants are tenants in tail, add (g): And that such guardians may be directed to make [*or.* to consent to] such application.

2226.

Summons for appointment of guardian of infant to be served with notice of application, and to deliver a notification pursuant to notice (*h*). [Dan. Pr. 2307.]

Proceed as in Form 2225, *down to* G. H., an infant; *and continue thus:* for the purpose of being served with a notice requiring them on behalf of such infants, within —— clear days after service thereof, to notify whether they assent to or dissent from an application proposed to be made by a petition presented on the —— day of ——, 188—, by the above-named applicants for an order in accordance with the prayer of such petition, or submit the infant's rights or interests, so far as they may be affected by such application, to be dealt with by the Court.

If the infants are tenants in tail, add (i): And that such guardians may be directed to notify that they, on behalf of such infants, assent to such application [*or*, dissent from such application—*or*, submit the infants' rights or interests, so far as they may be affected by such application, to be dealt with by the Court].

2227.

Affidavit in support of application for appointment of guardian (*j*). [Dan. Pr. 2306.]

Title: see Form 2221; *other formal parts: see* Form 6.

1. *State the infant's age; as thus:* The above-named infant A. B. is of the age of —— years.

2. *State whether the infant has any parent, testamentary guardian, or guardian appointed by the Court of Chancery, or by the Chancery Division of the High Court of Justice, and, if so, whether such parent or guardian has any interest in the application, and, if he has, the nature of such interest, and whether or not adverse to the interest of the infant; as thus:* The said A. B. has neither a parent, nor a testamentary guardian, nor a guardian appointed by the Court of Chancery, or by the Chancery Division of this Court.

3. *State where, and under whose care, the infant is residing; and at whose expense he is maintained; as thus:* The said A. B. is now residing with, and under the care of, his maternal uncle C. D., at (*State where*); and is maintained at the expense of the said C. D.

(*g*) See 40 & 41 Vict. c. 18, s. 49. The application that the guardian may be directed to apply, or consent, or give a notification may be combined with the application to appoint a guardian: Orders, 1878, r. 6; and by adopting this course the expense and delay of a subsequent application for leave will be saved.

(*h*) See notes to Form 2225. For form of summons, see Orders, 1878, App. No. 6. For form of order, see 2 Seton, 1474, No. 2.

(*i*) See note (*g*), *supra.*

(*j*) See Orders, 1878, r. 10; 2 Seton, 1480.

4. *State in what way the proposed guardian is connected with the infant; and why proposed; and how qualified to be appointed; as thus:* The said C. D., the person proposed to be appointed the special guardian of the said A. B., for the purpose of (*State what: as in the summons*), is the nearest relation of the said A. B.; and is proposed as such guardian because the said A. B. is under his care and protection, and is maintained at his expense. The said C. D. is also a person of good business habits, and fully competent to judge of the propriety of making [*or*, consenting to] the said application, on behalf of the said A. B.

5. *State whether the proposed guardian has any interest in the intended application; and, if he has, the nature of such interest, and that it is not adverse to the interest of the infant; as thus:* The said C. D. has no interest whatever in the subject matter of the application proposed to be made by the said petition.

6. *Show the consent of the proposed guardian to act; as thus:* I saw the said C. D. sign the paper writing now produced and shown to me, and marked A. (*k*), and purporting to be his consent to act as such guardian as aforesaid. The name or signature "——," set and subscribed to the said paper writing, is of the proper handwriting of the said C. D.

Or, 6. I am well acquainted with the handwriting of the said C. D.: having seen him write. The name or signature "——," set and subscribed to the paper writing now produced, *&c.*, and purporting to be, *&c.* (*as above*), is of the proper handwriting of the said C. D.

7. *State the nature of the intended application to the Court; as thus:* The object of the application proposed to be made by the said petition is (*State, succinctly, what; as thus:* to obtain an order for the sale, under the direction of this honourable Court, of the hereditaments described in the said petition).

8. *Show means of knowledge.*

2228

Consent to act of the proposed guardian of an infant (*l*). [Dan. Pr. 2307.]

(*Short title.*)

I, C. D., of (*residence and addition*), consent to be appointed special guardian of the above-named infant A. B., for the purpose of (*State what: as in the summons*).

Dated this —— day of ——, 188—.

C. D.

(*k*) Exhibit it. For form of memorandum of exhibit, see Form 28.

(*l*) For form of affidavit verifying the signature, see Form 2227, par. 6. Where the intended guardian makes an affidavit in support of the application, he should state therein his consent to act: so as to save the expense of a separate consent, and affidavit verifying it: 2 Seton, 1474.

2229.
Affidavit of guardian of infant tenant in tail, in support of application for leave to make or consent to application, or to give a notification (*m*). [Dan. Pr. 2308.]

Title: as in Form 2221 ; *other formal parts: see* Form 6.

1. I am the person appointed [*or*, proposed to be appointed] the guardian of C. D., an infant, for the purpose of making, on behalf of the said C. D. [*or*, consenting on behalf of the said C. D. to], an application proposed to be made (*&c.; as in* Form 2225 ; *or*, for the purpose of being served with a notice, *&c.; see* Form 2226).

2. I have fully considered, on behalf of the said C. D., the nature and object of the said application ; and I believe it to be proper, and consistent with a due regard for the interest of the said C. D., that I, as such guardian, should be directed to make [*or*, consent to ; *or*, to give a notification of assent [*or as may be*] respecting] the said application.

3. *State facts showing that it is proper, and consistent with a due regard for the interest of the infant, that the direction should be given; and show means of knowledge.*

2230.
Summons for direction for committee of tenant in tail to make or consent to application, or to give a notification (*n*). [Dan. Pr. 2307.]

Proceed as in Form 2225, *down to* petitioner X. Y., *and continue thus:* that A. B., the committee of the estate of C. D., a person found lunatic by inquisition, may be directed

If the lunatic is a petitioner, say: to make, on behalf of the said C. D., an application proposed to be made by a petition presented on the —— day of ——, 188—, by the above-named applicants for an order in accordance with the prayer of such petition.

If the lunatic is not a petitioner, and it is desired that he should consent to the application, say: to consent, on behalf of the said C. D., to an application proposed (*&c.; as above*).

If it is desired that the committee should give a notification, say: to notify that he, on behalf of the said C. D., assents to the application proposed (*&c.; as above*).

Or, dissents from the application proposed (*&c.; as above*).

Or, submits the rights or interests of the said C. D. to be dealt with by the Court, so far as they may be affected by an application proposed (*&c.; as above*).

2231.
Minute of examination of a married woman, by the Judge at chambers, as to her consent (*o*). [Dan. Pr. 2309, note (*p*).]

——, 188—.

Mr. Justice ——, at Chambers.

The petitioner A. B., the wife of C. B.,

Or, The within-named A. B., the wife of C. B.,

was this day examined by the Judge in person, apart from the said C. B.,

(*m*) See Orders, 1878, r. 12.

(*n*) See 40 & 41 Vict. c. 18, s. 49 ; Orders, 1878, rr. 6, 7, 9, 11, 12 ; 2 Seton, 1479—1481. For form of order, see 2 Seton, 1475, No. 3.

(*o*) See 40 & 41 Vict. c. 18, ss. 50—52 ; 2 Seton, 1483, 1484. The minute should be indorsed on the original petition, and signed by the Chief Clerk. The examination of a married woman may be taken at any time after the petition is presented and answered : Orders, 1878, r. 13. The examination is not necessary in the case of a woman married since the commencement of the Married Women's Property

her husband, touching her knowledge of the nature and effect of the application intended to be made by the within petition ; and the Judge ascertained from her that she freely desired to make

Or, if she is not a petitioner, say: that she freely desired to consent to

such application.

R. M., Chief Clerk.

2232.

Request for appointment of examiner of married woman (*p*). [Dan. Pr. 2310.]

(*Title, as in petition.*)

The petitioners ——, in a petition presented in these matters on the —— day of ——, request that A. B., of, *&c.* [C. D., of, *&c.*, and E. F., of, *&c.* (*q*)], being a solicitor [*or*, solicitors], and a perpetual commissioner [*or*, perpetual commissioners] to take the acknowledgement of deeds by married women, may be appointed for the purpose of any or either of them examining the petitioners G. the wife of H. I., and K. the wife of L. M., and N. the wife of O. P., of, *&c.*, respectively, touching their knowledge of the nature and effect of the application intended to be made by the petition, and to ascertain whether they the said G. I. and K. M. respectively freely desire to make such application, and whether she the said N. P. freely desires to consent to such application.

We, the solicitors for the petitioners, hereby certify that neither of them, the said A. B., C. D., and E. F., is the solicitor for the petitioner, or for any party whose concurrence or consent to the application is required.

Dated this —— day of ——.

A. and B., solicitors for the petitioners, of (*address*).

Mr. Justice —— appoints the said A. B., C. D., and E. F., for the purposes mentioned in the above request.

R. M., Chief Clerk.

2233.

Summons for appointment of special examiner of married woman (*r*). [Dan. Pr. 2310.]

Title: see Form 2221 ; *other formal parts: see* Form 43 *or* 1077.

on the part of ——, the petitioners in a petition presented in this matter on the —— day of ——, that A. B., of, *&c.*, and C. D., of, *&c.*, [*If the married women are within the jurisdiction, add:* being solicitors], be appointed for the purpose of any or either of them examining the

Act, 1882 (45 & 46 Vict. c. 75) : *Riddell* v. *Errington*, 26 Ch. D. 220 : 32 W. R. 680 ; but it is required in the case of a woman married before the Act, where her interest was acquired before the commencement of the Act : *In re Harris's Settled Estates*, 28 Ch. D. 171.

(*p*) See 40 & 41 Vict. c. 18, ss. 50—52 ; Orders, 1878, r. 14 ; 2 Seton, 1483, 1484. For form of request and certificate, see Orders, 1878, App. No. 7.

(*q*) Here name such as may be required to examine all the married women who are to be examined.

(*r*) See 40 & 41 Vict. c. 18, ss. 50—52 ; Orders, 1878, r. 14. For form of summons, see *Ibid.*, App. No. 8. For form of order, see 2 Seton, 1476, No. 7.

petitioners G. the wife of H. I. and K. the wife of L. M., and N. the wife of O. P., of, *&c.*, respectively touching their knowledge of the nature and effect of the application intended to be made by the said petition, and to ascertain whether they the said G. I. and K. M., freely desire to make such application, and whether she, the said N. P., freely desires to consent to such application.

2234. Affidavit in support of application to appoint a special examiner (*s*). [Dan. Pr. 2310.]

Title: see Form 2221; *other formal parts: see* Form 6.

1. I know and am well acquainted with E. F., of (*Place of business*), one of the solicitors of the Supreme Court, and the person proposed to be appointed to examine A. B., the wife of C. B., apart from her husband, touching her knowledge (*&c.: as in the summons*).

2. The said E. F. is not professionally concerned in the subject matter of the said petition, either for the petitioners, or any of them, or for any other of the parties interested in the object thereof.

3. I believe the said E. F. to be a fit and proper person to be appointed to examine the said A. B., for the purpose aforesaid.

A.

2235. The examination (*t*). [Dan. Pr. 2310.]

(*Title, as in petition.*)

The examination of the petitioner G. the wife of H. J., and K. the wife of L. M., and of N. the wife of O. P. (*u*).

We, the said G. J., K. M., and N. P.: having been this day respectively examined apart from our respective husbands touching our knowledge of the nature and effect of an application intended to be made to the High Court of Justice by a petition presented in this matter on the —— day of ——, by us, the said G. J. and K. M. and others: for answer thereto, severally say that we are aware of the nature and effect of the said intended application, and we, the said G. J. and K. M., severally, freely desire to make such application, and I, the said N. P., freely desire to consent to such application.

As witness our hands this —— day of ——, 188—.

G. J.
K. M.
N. P.

Witness to the signatures of the said G. J., K. M., and N. P.,
Q. R., of (*address*).

(*s*) Where the examination is to be taken out of the jurisdiction, the affidavit must be varied accordingly.

(*t*) See 40 & 41 Vict. c. 18, s. 51. For form, see Orders, 1878, App. No. 9. The examination should be written on the first side of a sheet of foolscap; and the examiner's certificate (see Form 2236) should follow at the foot thereof. The examination may be taken at any time after the petition is presented and answered: Orders, 1878, r. 13.

(*u*) Insert the names of all who can be conveniently examined by the same person, and at the same time.

2236.
Certificate of examination (*v*).
[Dan. Pr. 2310.]

B.

To Her Majesty's High Court of Justice.

I, the undersigned A. B., being the person appointed by Mr. Justice ——, for the purpose of examining the above-named G. the wife of H. I., K. the wife of L. M., and N. the wife of O. P., hereby certify that I have this —— day of ——, examined the said G. I., K. M., and N. P., apart from their respective husbands touching their knowledge of the nature and effect of the application intended to be made by the petition above referred to, and I have taken such examination in writing as above set forth; And I further certify that, at the time of such examination, I explained to them the nature and effect of the said application, and I am satisfied that they were aware of the nature and effect of such application, and that they, the said G. I. and K. M., freely desire to make the said application, and that the said N. P. freely desires to consent to the said application.

A. B.

Witness to the signature of A. B., Q. R., of (*address*).

2237.
Affidavit verifying the signatures to the examination and certificate (*w*).
[Dan. Pr. 2310.]

(*Title, as in petition.*)

I, Q. R., of ——, make oath and say that I was present and did see G. I., K. M., and N. P., respectively named in the above petition, sign the examination or paper writing annexed hereto and now produced and shown to me marked A, and that the signatures G. I., K. M., and N. P., attached thereto are respectively the proper handwritings of G. the wife of H. I., of ——, K. the wife of L. M., of ——, and N. the wife of O. P., of ——. And I further say that I was present and did see A. B. sign the certificate or paper writing annexed hereto, and now produced and shown to me marked B, and that the signature A. B. attached thereto is the proper handwriting of A. B., of, *&c.* And I say that the signature Q. R. attached to the said paper writings as a witness is my handwriting.

Sworn (*&c.: see* Form 9).

2238.
Memorandum of identity of examination and certificate (*x*).
[Dan. Pr. 2310.]

(*The same as* Form 1800.)

(*v*) See Orders, 1878, App. No. 10.

(*w*) *Ibid.*, App. No. 11. The affidavit should be written on the third or fourth side of the sheet of paper containing the examination and certificate; but it may be written on a separate sheet of paper. The examination, certificate, and affidavit are filed at the Central Office: whence an office copy of the three documents is procured for use: Dan. Pr. 2310.

(*x*) The memorandum should be written on the margin of the first page of the examination and certificate.

2239. Summons for directions as to service of notice pursuant to section 26 (*y*). [Dan. Pr. 2293.]

Title, as in petition: see Form 2221; *other formal parts: see* Form 43 *or* 1077.

on the part of the petitioner X. Y., that notice of the application intended to be made by a petition presented in the above matters on the —— day of ——, requiring A. B. and C. D., severally, to notify whether he assents to or dissents from such application, or submits his rights and interests, so far as they may be affected by such application, to be dealt with by the Court, may be given by (*State the manner in which it is proposed to give the notice* (*as in* Form 368), *and the time within which the notification is to be required*), or in such other manner as the Judge may think fit.

2240. Notice of the application (*z*). [Dan. Pr. 2293.]

(*Set out the full title, as in the petition*).

Take notice that (*Name petitioners and their addresses, as in petition*) have presented a petition in the above matters, praying that (*as in petition, but describing the lands, messuages, or tenements, as in the petition*), and it is intended to apply to the said Court for an order in accordance with such prayer, and you are [severally] hereby required to notify in writing, within —— (*a*), after the service hereof, whether you assent to or dissent from such application, or submit your rights or interests, so far as they may be affected by such application, to be dealt with by the Court; such notification is to be delivered to the petitioners' solicitors, or left for them at the address specified at the foot hereof, and may be so delivered by transmitting the same to them by post at such address.

If no notification shall be so delivered or left within the time above limited, you will be deemed to have submitted your rights and interests to be dealt with by the Court.

In the event of your dissenting from such application, and desiring to

(*y*) See 40 & 41 Vict. c. 18, ss. 26, 30, 49; 2 Seton, 1482, 1483. The application is only necessary in the following cases: (*a*) where the person to be served is of unsound mind not so found by inquisition; (*b*) where such person is out of the jurisdiction of the Court; and (*c*) where it is desired to effect substituted service: Orders, 1878, r. 4. The application must be made by the petitioner, and is *ex parte*, *Ibid.* For form of summons, see Orders, 1878, App. No. 2. For form of order, see 2 Seton, 1475, No. 4.

(*z*) See 40 & 41 Vict. c. 18, s. 26. For form, see Orders, 1878, App. No. 3. Service of the order must: except in the case of a person of unsound mind not so found, and except where the Court or Judge otherwise directs: be effected by delivery of the notice to the person to be served therewith: Orders, 1878, r. 4. As to the right of the person served to inspect and peruse, and to be furnished with a copy of, the petition, see Orders, 1878, r. 22.

(*a*) The time to be specified in the notice for the person served to deliver or leave a notification must (*a*) in case the person to be served is the guardian of an infant, be such as is directed by the Judge in the order appointing the guardian; (*b*) in case the person to be served is a married woman, or a committee of a lunatic, be not less than twenty-eight clear days after the service; and (*c*) in other cases, be not less than *fourteen clear days* after the service: Orders, 1878, r. 4.

be heard in opposition to the application, you are, by your notification, to require notice to be given to or left for you or your solicitor at a place to be specified within three miles from the site of Temple Bar, London, of the day on which the petition is fixed for hearing.

You or your solicitor can, upon reasonable notice to the under-named A. and B., inspect and peruse the petition without payment of any fee, and you are entitled, at your own expense, to have a copy of such petition furnished to you.

Dated the —— day of ——.

A. and B.

(*Address within three miles of the site of Temple Bar, London.*)

Petitioners' Solicitors.

To (*Name the person or all the persons to be served pursuant to the above section*).

NOTE.—A copy of the above notice, with a notification at the foot thereof to be filled up by you, is sent herewith (*b*).

2241.

Notification to be annexed to notice, pursuant to section 26 (*c*). [Dan. Pr. 2294.]

In pursuance of a notice, of which the above is a copy, served on me on the —— day of ——, I hereby notify that I *

Dated this —— day of ——, 188—.

To Messrs. ——. †

* Here insert "assent to the application," or "dissent from the application," or "submit my rights and interests, so far as they may be affected by the application, to be dealt with by the Court."

And if you dissent and desire to be heard in opposition thereto, add "And I desire to be heard in opposition to the application, and require notice to be given to at (*naming a place within three miles of the site of Temple Bar, London*), of the day fixed for the hearing of the petition.

† Signature and address.

2242.

Summons to dispense with notice (*d*). [Dan. Pr. 2294.]

Title as in petition: see Form 2221; *other formal parts: see* Form 43 *or* 1077.

on the part of the petitioner A. B., that notice of the application in this matter, which pursuant to the 26th section of "The Settled Estates Act, 1877," is required to be served upon L. M., may be dispensed with.

(*b*) For form of notification to be annexed to the notice, see Form 2241.

(*c*) See Orders, 1878, App. No. 4. This form must be written at the foot of every notice given under 40 & 41 Vict. c. 18, s. 26: see Form 2240. The notification may be served by being left at, or sent by post to, the address of the petitioners' solicitors as specified in the notice.

(*d*) See 40 & 41 Vict. c. 18, s. 27; 2 Seton, 1482. For form of order, see 2 Seton 1475, No. 5.

2243.
Notice to trustees for person interested, pursuant to section 30 (*e*). [Dan. Pr. 2296.]

(*Heading and title as in petition: see* Form 2221.)

Take notice that (*Name petitioners and their addresses, as in petition*) have presented a petition in the above matters, praying that (*as in petition, but describing the lands, messuages, or tenements, as in the petition*), and it is intended to apply to the said Court for an order in accordance with such prayer. This notice is given to you in pursuance of the above Act because you are seised or possessed of an estate in trust for ——, whose consent or concurrence to or in the application is required by the Act. You or your solicitors can, upon reasonable notice to the undernamed A. and B., inspect and peruse the petition at the address specified at the foot hereof, without payment of any fee; and you are entitled at your expense to have a copy of such petition furnished to you.

Dated this —— day of ——, 188—.

A. & B.,
of (*address*),
Solicitors for the petitioners.

To (*Name the persons to be served pursuant to the above section*).

2244.
Notice for insertion in newspapers (*f*). [Dan. Pr. 2297.]

(*Set out the full title, as in the petition.*)

By direction of Mr. Justice ——, notice is hereby given that an application by petition has been made to the Court of the said Judge for a sale of the above-mentioned hereditaments [*or*, for powers to grant leases of the above-mentioned hereditaments—*or as may be*], and the Court has directed the application to be adjourned [*or*, adjourned till ——]; and any person, whether interested in the estate or not, may, on or before ——, apply to the said Court by motion for leave to be heard in opposition to or in support of such application. The petition may be inspected on application to Messrs. A. and B., of ——, the solicitors for the petitioners.

2245.
Motion paper or notice of motion for leave to be heard on the application (*g*). [Dan. Pr. 2297.]

(*Heading and title as in petition.*)

If the application is by motion ex parte, say: To move on behalf of

If it is by motion on notice, say: Let all parties (*&c.: Proceed as in* Form 38, *to* counsel) on the part of

(*e*) See 40 & 41 Vict. c. 18, s. 30; Orders, 1878, r. 16. For form of notice, see Orders, 1878, App. No. 12. As to the right of the person served with the notice to inspect and peruse, and to be furnished with a copy of, the petition, see Orders, 1878, r. 22.

(*f*) Notice of the application is not to be inserted in the newspapers, unless the Court shall so direct upon the hearing of the petition: 40 & 41 Vict. c. 18, s. 31; Orders, 1878, r. 18; see 2 Seton, 1485. For form of notice, see Orders, 1878, App. No. 13.

(*g*) See 40 & 41 Vict. c. 18, s. 31; Orders, 1878, r. 19. The application may be

In any case, proceed thus: A. W., of (*residence and addition*), that he may be at liberty to appear, and be heard in opposition to [*or*, in support of] the application intended to be made in this matter by the petition of A. B. and others, presented on the ——, 188—.

If the application is ex parte, add: subject to such order as the Court shall think fit to make as to costs.

2246.

Application to be furnished with a copy of the petition (*h*). [Dan. Pr. 2298.]

(*Short title.*)

I request to be furnished with a copy of the petition of A. B. and others in this matter; and I undertake to pay all proper charges for the same.

Dated (*&c.: Conclude as in* Form 37).

2247.

Notice of the day appointed for hearing the petition (*i*). [Dan. Pr. 2298.]

Formal parts: see Form 37.

This petition will be placed in the paper of petitions of his lordship Mr. Justice ——, on ——, the —— day of ——, 188—.

2248.

Petition for application of purchase money, or of money set aside out of rent (*j*). [Dan. Pr. 2301—2304.]

Proceed as in Form 2221, *down to* "as follows"; *and continue thus:*

1. *State the order made on the original petition so far as it authorised a sale or lease, and directed an investment of the purchase-money, or of the money set aside out of the rents, and the payment of the income thereof to the party entitled thereto.*

2. *State the completion of the sale or lease, and the payment of the purchase-money, or part of the rent, into Court.*

3. The said £ A. (*purchase-money, or part of rent, paid into Court*) is now represented by the sum of £ B. consolidated £3 per cent. annuities

either *ex parte* or upon notice, *Ibid.* For form of order, see 2 Seton, 1476, No. 6. If an order is made *ex parte* giving leave to be heard, it must be served on the solicitor to the petitioner: Orders, 1878, r. 21. As to the right of a person who has obtained leave to be heard to inspect and peruse, and to be furnished with a copy of, the petition, see Orders, 1878, r. 20.

(*h*) See Orders, 1878, rr. 20, 22.

(*i*) See Orders, 1878, r. 3.

(*j*) As to the application of purchase-money received on a sale, or of money set aside out of rent reserved on a lease, authorised under the Act, see 40 & 41 Vict. c. 18, ss. 34, 35, 37; 2 Seton, 1503—1505. For form of order for interim investment on mortgage, see 2 Seton, 1500, No. 10. For form of order for sale of land, and investment of purchase-money in purchase of ground-rents, see 2 Seton, 1501, No. 11. For form of order for payment of purchase-monies to trustees, see 2 Seton, 1496, No. 1. Money in Court under 40 & 41 Vict. c. 18, may be applied as capital-money under the Settled Land Act, 1882 (45 & 46 Vict. c. 38): see s. 32 of last-named Act.

in Court to the credit of "*Ex parte* A. B.—In the matter of the Settled Estates Act, 1877."

4. Your petitioner, on behalf of the parties interested under the said will [*or as may be*], lately entered into an agreement: conditional on the approval thereof by this Court: with G. H., of, *&c.*, for the purchase from the said G. H., for the sum of £ C., of certain freehold hereditaments belonging to him situate at ——, and comprising about —— acres.

5. The said proposed purchase is a fit and proper investment of the sum of £ C., in accordance with the trusts of the said will [*or as may be*]; and your petitioner is desirous that the same should be approved by this Court, on behalf of the persons interested under the said will [*or, as may be*], and that the said £ C. should be raised out of the said £ B. stock.

Your petitioner therefore humbly prays, as follows:

1. That the said proposed purchase may be approved as a proper investment of the said £ C.
2. That the usual inquiry may be made as to the title to the said hereditaments.
3. That in case such title shall be approved, a proper conveyance of the said hereditaments to the uses of the said will [*or, as may be*], may be settled.
4. That upon the due execution thereof by all proper parties, the said £ C. may be raised out of the said £ B. consolidated £3 per cent. annuities, and be paid to such person or persons as shall be certified to be entitled to receive the same.
5. That it may be referred to the Taxing Master to tax your petitioner and the said (*Name any other parties entitled to their costs of the application*) their costs (*k*) of this application: including therein the charges and expenses of and incident to the said investment in the purchase of the said hereditaments, and of all proceedings relating thereto; and that the amount of such costs, when taxed, may be raised by a sale of a competent portion of the residue of the said £ B. consolidated £3 per cent. annuities after the aforesaid sale thereout.
6. That the rents and profits of the said hereditaments after the purchase thereof, and the dividends as they accrue on the residue of the said £ B. consolidated £3 per cent. annuities after the sales thereout hereinbefore mentioned during the life of your petitioner, may be paid to your petitioner A. B. until further order (*l*).

Or that (*Conclude as in* Form 40; *and add foot note*, Form 41).

(*k*) See 40 & 41 Vict. c. 18, s. 41.

(*l*) The directions for sale, payment of costs, and payment of dividends on the residue of the fund will be contained in a payment schedule to the order: see S. C. Funds Rules, 1884, rr. 6, 10, 24, 25, 46.

Section XLII.—The Conveyancing and Law of Property Act, 1881 (*m*).

(*Dan. Pr.*, pp. 2312—2317, ccccxxvii.)

2249.

Summons for discharge of incumbrances (*n*). [Dan. Pr. 2313.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*o*).)

In the matter of a contract dated the —— day of ——, 188—, for sale (*p*) of the Blackacre estate, situate at ——, in the county of ——, and made between A. B. (*Vendor*) and C. D. (*Purchaser*).

And in the matter of the Conveyancing and Law of Property Act, 1881.

Let (*&c.: Continue as in* Form 1078, *to* noon), on the hearing of an application on the part of the above-named A. B., of (*q*) (*residence and addition*), [*or*, of the above-named C. D., of, *&c.* (*q*)], that (*Continue as in* Form 1350, *to the end*).

2250.

Summons for declaration that the land is freed from the incumbrance (*r*). [Dan. Pr. 2313.]

(*See* Form 1351.)

(*m*) See 44 & 45 Vict. c. 41; 45 & 46 Vict. c. 39. As to these Acts, see Wolstenholme & Turner's Conveyancing Acts, 1881 & 1882; Morgan, 109—138.

(*n*) See 44 & 45 Vict. c. 41, s. 5; Wolstenholme & Turner, 25—28. As to notice to the incumbrancer, see 44 & 45 Vict. c. 41, s. 5 (1), (2). The application must be made by summons: 44 & 45 Vict. c. 41, s. 69 (3); if made in a pending action or matter, the summons will be an ordinary one: otherwise the application must be made by an originating summons. As to service of the summons, see 44 & 45 Vict. c. 41, s. 69, (4), (5), (6). As to proceeding under this section in an administration action, see *Patching* v. *Bull*, 30 W. R. 244. As to the form of order where a sale is directed in an action, the incumbrancer not being a party to the action, see *Dickin* v. *Dickin*, W. N. (1882), 113: 30 W. R. 887; and see Forms 1350, 1351, and notes thereto.

(*o*) See R. S. C. Ord. V. 9 (*b*).

(*p*) Section 5 of the Act is confined to cases of sales: Wolstenholme & Turner, 25.

(*q*) The applicant must be a party to the sale: 44 & 45 Vict. c. 41, s. 5.

(*r*) See notes to Form 1351. Whether the declaration that the land is free can be properly comprised in the order directing the payment into Court appears to be open to question. In *Dickin* v. *Dickin*, W. N. (1882), 113: 30 W. R. 887, it was held that in an action to which the incumbrancer was no party, liberty should be reserved by the order for payment into Court, to apply at Chambers for an order declaring the land free. In the somewhat analogous case of an application for a vesting order, it is well established that no such order will be made until the purchase-money has been paid into Court: see note (*x*), at p. 568.

2251.

Summons for production of documents under an acknowledgment of the right to production (*s*). [Dan. Pr. 2314.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*ss*).)

In the matter of an acknowledgment of the right to production of documents, dated the —— day of ——, 188—, given by A. B. to C. D.

And in the matter of the Conveyancing and Law of Property Act, 1881.

Let (*&c.: Proceed as in* Form 1078, *to* noon), on the hearing of an application on the part of the above-named C. D. [*or as may be* (*t*)], of, *&c.*, that the above-named A. B. [*or as may be* (*u*)], of, *&c.*, may be ordered to produce for inspection to the applicant, or to any other person duly authorised by him in writing (*v*), at all reasonable times, the following documents (*Describing them*),

Or, if the documents are numerous, the documents mentioned in the schedule hereto,

and to deliver to the applicant true copies or extracts of or from such documents as he shall in writing request: the applicant undertaking to pay Mr. Y. Z. (the solicitor of the said A. B.) his proper costs and charges of making such copies or extracts.

And that the said A. B. [*or as may be*] may be ordered to pay the costs of this application (*v*).

2252.

Summons for inquiry as to damages sustained by loss, &c., of documents contained in an undertaking for safe custody (*w*). [Dan. Pr. 2314.]

(*Title as in* Form 2251, *substituting* undertaking for safe custody *for* acknowledgment of the right to production: *other formal parts as in* Form 1078.)

on the part of the above-named C. D. [*or as may be*], of, *&c.* (*x*).

That an inquiry may be directed as to what (if any) damages have been sustained by the applicant in consequence of the loss of [*or*, destruction of—*or*, injury to] the following documents (*Describing them*),

Or, if the documents are numerous, the documents mentioned in the schedule hereto,

being the documents comprised in the undertaking for safe custody thereof, dated the —— day of ——, 188—, given by the above-named A. B. to the applicant [*or as may be*].

(*s*) See 44 & 45 Vict. c. 41, s. 9 (7); Wolstenholme & Turner, 46—48. As to an acknowledgment and the effect thereof, see 44 & 45 Vict. c. 41, s. 9 (1), (2), (3), (4), (5), (6), (8), (12), (13), (14).

(*ss*) See R. S. C. Ord. V. 9 (*b*).

(*t*) As to the person entitled to require performance of the obligations imposed by an acknowledgment, see 44 & 45 Vict. c. 41, s. 9 (3).

(*u*) As to the person bound to perform the obligations imposed by an acknowledgment, see 44 & 45 Vict. c. 41, s. 9 (2).

(*v*) See 44 & 45 Vict. c. 41, s. 9 (7).

(*w*) *Ibid.*, s. 9 (10); Wolstenholme & Turner, 46—48. As to an undertaking for safe custody, and the effect thereof, see 44 & 45 Vict. c. 41, s. 9 (9), (11), (12), (13), (14).

(*x*) As to the person entitled to apply, see 44 & 45 Vict. c. 41, s. 9 (10).

And that in case it shall appear that any such damages have been sustained by the applicant, the said A. B. (*y*) [*or as may be*] may be ordered to pay to the applicant the amount which shall be certified to be due to him in respect of such damages, within —— days after the filing of the Chief Clerk's certificate in answer to such inquiry: together with the costs of the applicant of this application, and consequent thereon, and of the said inquiry—such costs to be taxed.

2253.

Summons to bind the interest of a married woman notwithstanding restraint on anticipation (*z*).

[Dan. Pr. 2314, 2315.]

188—. B. No. ——.

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*zz*).)

In the matter of the trusts of an indenture of settlement dated the —— day of ——, 188—, executed on the marriage of E. B. and A. B.

And in the matter of the Conveyancing and Law of Property Act, 1881 (*a*).

Let (*&c.: Proceed as in* Form 1078, *to* noon), on the hearing of an application on the part of A. B., the wife of E. B., of (*address and addition*), that, notwithstanding the applicant is restrained from anticipating her interest under the indenture of settlement dated the —— day of ——, 188—, executed upon her marriage with the said E. B., the sum of £——, part of the funds subject to the trusts of the said settlement, may be applied by E. F., G. H., and M. N., the trustees of the said settlement, for the purposes following (*State what*).

2254.

Summons for sale, in action for foreclosure or redemption (*b*).

(*See* Form 1541.)

(*y*) As to the person liable under an undertaking for safe custody, see 44 & 45 Vict. c. 41, s. 9 (9); Wolstenholme & Turner, 45, 46.

(*z*) See 44 & 45 Vict. c. 41, s. 39 (1); Wolstenholme & Turner, 88, 89. As to the intention of the section, see *Tamplin* v. *Miller*, W. N. (1882), 44: 30 W. R. 422. The application will be made by originating summons, except where made in a pending action or proceeding. In the Chambers of Chitty, J., it is the practice, under the directions of his Lordship, to adjourn the application to the Judge, in order that he may exercise his personal discretion in the matter. It is not usual to ascertain the consent of the married woman by her separate examination: *Hodges* v. *Hodges*, 20 Ch. D. 749: 30 W. R. 483; but the Judge requires to be satisfied that the application is made with her full and free consent, and that she understands the effect of it.

(*zz*) See R. S. C. Ord. V. 9 (*b*).

(*a*) Where the application is made in a pending action or proceeding, the summons need not be entitled in the Act: *Re Landfield*, *Landfield* v. *Landfield*, 30 W. R. 377; Dan. Pr. 2315.

(*b*) See 44 & 45 Vict. c. 41, s. 25: Wolstenholme & Turner, 72—74; and see note (*r*), at p. 664, and cases there cited. A sale may be ordered under this sec-

2255. Summons for relief from forfeiture, in action to enforce right of re-entry or forfeiture for breach of covenant in a lease (*e*).

In the High Court of Justice, 188—. B. No. ——.
Chancery Division.
(*Name of Judge.*)
Between A. B. . . . Plaintiff,
and
C. D. . . . Defendant (*d*).

Let (*&c.: Proceed as in* Form 43 *or* 1077, *to* noon), on the hearing of an application on the part of the above-named defendant C. D., that relief against forfeiture of the lease in the statement of claim [*or*, in the indorsement on the writ of summons] in this action mentioned, may be granted upon the terms following (*State them*).

Or, that an inquiry may be directed to ascertain what damages, if any, the plaintiff is entitled to recover from the applicant in respect of the breach [*or*, breaches] of covenant complained of by the plaintiff, and that, upon payment by the applicant to the plaintiff of the amount, if any, which shall be certified to be due to him, within —— days from the filing of the Chief Clerk's certificate in answer to such inquiry, together with the costs of this action, including the costs of this application (such costs to be taxed), the applicant may be relieved from forfeiture of the lease in the statement of claim [*or*, in the indorsement on the writ of summons] in this action mentioned, in respect of such breach [*or*, breaches] of covenant.

And that in the meantime all further proceedings in this action may be stayed.

Section XLIII.—The Settled Land Acts, 1882, 1884 (*e*).

(*Dan. Pr.*, pp. 2317—2334, ccccxxvii., ccccxxviii.)

2256. Title of proceedings (*f*). [Dan. Pr. 2330.]

(*Reference to the record.*)
In the High Court of Justice,
Chancery Division.
(*Name of Judge.*)
In the matter of the Blackacre estate,
Or, of the timber upon the Blackacre estate,
situate at ——, in the county of ——,

tion, at the request of an equitable mortgagee by deposit, though such deposit was not accompanied by an agreement to execute a legal mortgage: *Oldham* v. *Stringer*, 33 W. R. 251.

(*c*) See 44 & 45 Vict. c. 41, s. 14 (2); Wolstenholme & Turner, 51, 52; *Quilter* v. *Mapleson*, 9 Q. B. D. 672; *North London Land Co.* v. *Jacques*, 32 W. R. 283. For form of notice to be given to a lessee before enforcing right of re-entry or forfeiture under 44 & 45 Vict. c. 41, s. 14 (1), (3), (4), see Chitty's Forms, 600.

(*d*) The application for relief may be made in the action, if any, brought by the lessor, or in an action brought by the lessee: 44 & 45 Vict. c. 41, s. 14 (2); relief cannot be obtained on originating summons.

(*e*) 45 & 46 Vict. c. 38; 47 & 48 Vict. c. 18. See Settled Land Act Rules, 1882; Wolstenholme & Turner on the Acts; Morgan, 139—167. For a general summary of the provisions of the Settled Land Act, 1882, see Wolstenholme & Turner, 1—8.

(*f*) See Settled Land Act Rules, 1882, r. 3; App. No. 1.

Or, of the chattels,
settled by a settlement made by an indenture dated the —— day of ——, 188—, and made between (*State parties*) [*or*, by the will of A. B. dated the —— day of ——, 188— ; *or as the case may be*].
In the case of land settled by reason of the owner being an infant, say: In the matter of, *&c.*, settled land within the meaning of the Settled Land Act, 1882, s. 59, by reason of A. B., the person seised of or entitled to such land, being an infant (*f*).
In the case of an estate by the curtesy, say: In the matter of, *&c.*, settled by a settlement made within the meaning of the Settled Land Act, 1884, s. 8, by A. B., deceased, the late wife of C. B. (*ff*).
And in the matter of the Settled Land Act, 1882 (*g*).

2257.
Formal parts of summons under the Act (*gg*). [Dan. Pr. 2330.]

(*Title as in* Form 2256.)

Let all parties concerned attend at my Chambers at the Royal Courts of Justice on ——day, the —— day of ——, 188—, at —— o'clock in the forenoon, on the hearing of an application—

(*a.*) On the part of A. B., the tenant for life [*or*, tenant in tail—*or as the case may be, describing the nature of the applicant's estate*] under the above-mentioned settlement.

Or, (*b.*) On the part of A. B., the tenant for life [*or as the case may be*] under the above-mentioned settlement, an infant, by X. Y., his testamentary guardian [*or*, guardian appointed by order dated the —— day of ——, 188— ; *or*, next friend].

Or, (*c.*) On the part of C. D. and E. F., the trustees of the above-mentioned settlement for the purposes of the above-mentioned Act.

Or, (*d.*) On the part of G. H., the tenant for life in remainder [*or*, tenant in tail in remainder—*or as the case may be, describing the applicant's interest*] under the above-mentioned settlement subject to the life interest of A. B. [*or as the case may be*].

Or, (*e.*) On the part of I. J., the purchaser of the lands [*or*, the timber upon the lands—*or*, chattels—*or as the case may be*] settled by the above-mentioned settlement.

Or, (*f.*) On the part of I. J., the lessee under a mining lease dated

(*f*) This form is suggested to meet the case where the settlement is effected by the Act itself, as where an infant has acquired the fee simple in possession either by inheritance or under an immediate devise or grant, see p. 1009, note (*r*).

(*ff*) This form of title is suggested by Messrs. Wolstenholme & Turner (p. 100, *d*), to meet the case of a tenant by the curtesy under 47 & 48 Vict. c. 18, s. 8.

(*g*) Where the application is made in accordance with the provisions of the Settled Land Act, 1884 (47 & 48 Vict. c. 18), the proceedings must be entitled in the matter of that Act as well as in the matter of the Act of 1882.

(*gg*) See Settled Land Act Rules, 1882, r. 2 ; App. No. 2. Every application to the Court is to be by petition or summons: 45 & 46 Vict. c. 38, s. 46 (3). All applications may be made by summons ; and, if in any case a petition is presented without the direction of the Judge, no further costs are to be allowed than would be allowed upon a summons: Settled Land Act Rules, 1882, r. 2.

the —— day of ——, 188—, granted under the powers of the above-mentioned Act of the mines and minerals under the lands settled by the above-mentioned settlement.

Or, (*g.*) On the part of I. J., the mortgagee under a mortgage intended to be created under section 18 of the above-mentioned Act of the lands settled by the above-mentioned settlement.

Or, (*h.*) On the part of K. L., interested under the contract hereinafter mentioned.

Dated the —— day of ——, 188—.

This summons was taken out by X. Y., of ——, solicitor for the applicant.

To

(*Add the names of the persons (if any) on whom the summons is to be served.*)

2258.

Summons for general leasing powers (*h*). [Dan. Pr. 2320, 2321.]

Title as in Form 2256 ; *other formal parts, as in* Form 2257, *paragraph* (*a*) *or* (*b*).

1. That the applicant [*or, in the case of an infant,* that the said X. Y. during the infancy of the said A. B.], and each of his successors in title [*or, in the case of an infant,* each of the successors in title of the said A. B.], being a tenant for life or having the powers of a tenant for life under the above-mentioned Act, may, pursuant to section 10 of the said Act, be authorised from time to time to make building [*or,* mining] leases of the lands comprised in the said settlement for the term of —— years [*or,* in perpetuity] on the conditions specified in the said Act [*or,* on other conditions than those specified in sections 7 to 9 of the said Act] (*i*).

2. That the costs of this application may be directed to be taxed as between solicitor and client, and that the same when taxed may be paid out of the property subject to the said settlement, and that for that purpose all necessary directions may be given (*j*).

2259.

Summons for authority to grant a particular lease, where the tenant for life has entered into a contract (*k*). [Dan. Pr. 2321.]

Title as in Form 2256 ; *other formal parts, as in* Form 2257, *paragraph* (*a*) *or* (*b*).

1. That the conditional contract, dated the —— day of ——, 188—, and made between the applicant [*or,* the said X. Y.], of the one part, and E. F., of the other part, for a [building *or,* mining] lease to the

(*h*) See Settled Land Act Rules, 1882, rr. 2, 9 ; App. No. 3. As to the powers of a tenant for life to grant leases under the Act, see 45 & 46 Vict. c. 38, ss. 6—14. As to lease of the principal mansion-house and desmesnes, *Ibid.*, s. 15. As to the dedication of streets, open spaces, &c., on, or in connection with, a building lease, *Ibid.*, s. 16. As to the lease of the minerals apart from the surface, see *Ibid.*, s. 17.

(*i*) The proposed conditions ought not, except in simple cases, to be set forth in the summons : note to Official Form.

(*j*) As to payment of costs, see 45 & 46 Vict. c. 38, ss. 21 (x), 47 ; Settled Land Act Rules, 1882, r. 15. As to fees and allowances to solicitors, *Ibid.*, r. 16 ; as to Court fees, *Ibid.*, r. 17.

(*k*) See 45 & 46 Vict. c. 38, ss. 10, 11, 15 ; Settled Land Act Rules, 1882, rr. 2, 9 ; App. No. 4.

said E. F., of the hereditaments therein mentioned for the term, and upon the conditions therein stated, may, pursuant to section 10 [*or*, 15] of the above-mentioned Act, be approved, and that the said A. B. [*or*, X. Y.] may be authorised to execute a lease in pursuance of the said contract.

2. (*Add application for costs, as in* Form 2258, *paragraph* 2.)

2260.

Summons for authority to grant a particular lease, where no contract has been entered into (*l*). [Dan. Pr. 2321.]

Title as in Form 2256 ; *other formal parts, as in* Form 2257, *paragraph* (*a*) *or* (*b*).

1. That the [building *or*, mining] lease intended to be granted to E. F. of the lands [*or*, of the mansion house, &c.] settled by the said settlement may, pursuant to section 10 [*or*, 15] of the above-mentioned Act be approved, and that the applicant [*or*, the said X. Y.] may be authorised to execute the same.

2. (*Add application for costs, as in* Form 2258, *paragraph* 2.)

2261.

Summons for sale out of Court of the principal mansion house and demesnes, or of timber, or chattels (*m*). [Dan. Pr. 2319, 2328, 2329.]

Title as in Form 2256 ; *other formal parts, as in* Form 2257, *paragraph* (*a*) *or* (*b*).

1. That the applicant [*or, in the case of an infant,* the said X. Y.] may be authorised to sell the principal mansion house

Or, the timber ripe and fit for cutting on the land

Or, the furniture and chattels

settled by the above-mentioned settlement in such manner and subject to such particulars, conditions, and provisions as he may think fit.

2. That the costs of this application may be taxed as between solicitor and client, and that C. D. and E. F., the trustees of the said settlement, may be at liberty to pay the costs when taxed out of the proceeds of the said sale [*or, in the case of timber,* out of the three-fourths of the proceeds of the said sale to be set aside as capital money arising under the said Act (*n*)—*or, if this form is not applicable, as in* Form 2258, *paragraph* 2].

2262.

Summons for sale by the Court in like case (*o*). [Dan. Pr. 2319, 2328, 2329.]

Title as in Form 2256 ; *other formal parts, as in* Form 2257, *paragraph* (*a*) *or* (*b*).

1. That the principal mansion house

Or, the timber ripe and fit for cutting on the land,

Or, the furniture and chattels,

(*l*) See 45 & 46 Vict. c. 38, ss. 10, 11, 15 ; Settled Land Act Rules, 1882, rr. 2, 9 ; App. No. 5.

(*m*) See 45 & 46 Vict. c. 38, ss. 15, 35, 37 ; Settled Land Act Rules, 1882, rr. 2, 8 ; App. No. 6. Any sale authorised or directed by the Court under the Act will be carried into effect out of Court, unless the Judge otherwise orders, *Ibid.*, r. 8.

(*n*) See 45 & 46 Vict. c. 38, s. 35 (2).

(*o*) See 45 & 46 Vict. c. 38, ss. 15, 35, 37 ; Settled Land Act Rules, 1882, rr. 2, 8 ; App. No. 7.

settled by the above-mentioned settlement, may be sold under the direction of the Court.

2. (*Application for costs, as in* Form 2258, *paragraph* 2.)

2263. Affidavit verifying title (*p*). [Dan. Pr. 2331.]

(*Title as in* Form 2256.)

I, A. B., of (*address and addition*), make oath and say as follows :

1. By the above-mentioned settlement the above-mentioned lands *Or*, certain chattels (*shortly describing them*) stand limited to uses [*or*, upon trusts] under which A. B. is [*or*, I am] beneficially entitled in possession as tenant for life [*or*, tenant in tail—*or*, tenant in fee simple, with an executory gift over—*or as the case may be*].

2. *If it is the fact, say :* The said A. B. is an infant of the age of —— years or thereabouts.

3. C. D., of (*address and addition*), and E. F., of (*address and addition*), are trustees under the said settlement, with a power of sale of the said lands [*or*, with power of consent to or approval of the exercise of a power of sale of the said lands contained in the said settlement—*or*, are the persons by the said settlement declared to be trustees thereof for purposes of the above-mentioned Act].

Sworn (*&c. : as in* Form 9).

2264. Summons by purchaser for payment into Court of purchase money of settled land, timber, or chattels (*q*). [Dan. Pr. 2323.]

Title as in Form 2256 ; *other formal parts, as in* Form 2257, *paragraph* (*e*).

1. That the applicant may be at liberty to pay into Court to the credit of "In the matter of the settlement, dated the ——, 188—, and made between (*State parties*) [*or*, will, &c.], proceeds of sale of the A. estate [*or as the case may be*], and in the matter of the Settled Land Act, 1882," (*r*) the sum of £—— on account of the purchase money of the said A. estate [*or as the case may be*] settled by the said settlement [*or*, will, &c.].

2. That such directions may be given for the investment of the said sums when paid into Court, and the accumulation or payment of the dividends of the securities representing the same, as the Court may think proper (*s*).

(*p*) See Settled Land Act Rules, 1882, r. 7 ; App. No. 8.

(*q*) See 45 & 46 Vict. c. 38, s. 22 ; Settled Land Act Rules, 1882, rr. 10, 11 ; App. No. 9.

(*r*) See Settled Land Act Rules, 1882, r. 13.

(*s*) See 45 & 46 Vict. c. 38, s. 22 ; Settled Land Act Rules, 1882, r. 12. As to the investment or other application of capital monies arising under the Act, see 45 & 46 Vict. c. 38, s. 21 ; *Mackenzie's Trusts*, 23 Ch. D. 750 : 31 W. R. 948 ; *Knatchbull's Settled Estates*, 27 Ch. D. 349 : 33 W. R. 10.

2265.

Summons for payment into Court by lessee under a mining lease (*t*).

[Dan. Pr. 2321, 2323.]

Title as in Form 2256 ; *other formal parts, as in* Form 2257, *paragraph* (*f*).

1. That the applicant may be at liberty to pay into Court to the credit of "In the matter of the settlement dated the ——, 188—, and made between (*State parties*) [*or*, the will, *&c.*], mineral rents under lease dated the ——, 188—, and in the matter of the Settled Land Act, 1882" (*u*), the sum of £——, being three-fourths [*or*, one-fourth] (*v*) of the rents payable by him under the said lease for the half-year ending the ——, less £—— the costs of payment into Court (*w*).

2. That the applicant may be at liberty on or before the —— day of ——, 188—, and the —— day of ——, in every year during the term created by the said lease to pay into Court to the credit aforesaid, so much of the rents payable by him under the said lease as is by section 11 of the above-mentioned Act directed to be set aside as capital money arising under the said Act, after deducting therefrom the costs of payment in : the amount paid in to be verified by affidavit.

3. That the said sum of £——, and all other sums to be paid into Court to the credit aforesaid, may be invested in the purchase of (*name the investment*) to the like credit ; and that the dividends on the said —— when purchased may be paid to A. B., the tenant for life under the above-mentioned settlement, during his life or until further order (*x*).

2266.

Summons for payment into Court by mortgagee (*y*).

[Dan. Pr. 2321.]

Title as in Form 2256 ; *other formal parts as in* Form 2257, *paragraph* (*g*).

1. That the applicant may be at liberty to pay into court to the credit of "Money advanced on mortgage of lands settled by the settlement dated the —— day of ——, 188—, and made between (*State the parties*) [*or*, the will, *&c.*] and in the matter of the Settled Land Act, 1882," the sum of £——, being the amount agreed to be advanced by him on mortgage of the lands comprised in the above-mentioned settlement less the costs of payment in.

2. (*Add directions for investment as in* Form 2264, *paragraph* 2.)

2267.

Affidavit in support of summons for payment into Court (*z*).

[Dan. Pr. 2323.]

(*Title, as in* Form 2256.)

I, E. F., of (*address and addition*), make oath and say as follows :

State where the person desiring to make the payment is to be served with

(*t*) See 45 & 46 Vict. c. 38, ss. 11, 22 ; Settled Land Act Rules, 1882, rr. 10—13 ; App. No. 10.

(*u*) See Settled Land Act Rules, 1882, r. 13.

(*v*) See 45 & 46 Vict. c. 38, s. 11.

(*w*) See Settled Land Act Rules, 1882, r. 14.

(*x*) See 45 & 46 Vict. c. 38, ss. 11, 22.

(*y*) *Ibid.*, ss. 18, 22 ; Settled Land Act Rules, 1882, rr. 10—14 ; App. No. 11.

(*z*) See Settled Land Act Rules, 1882, r. 11.

notice of any proceeding relating to the money; as thus: 1. The office of Messrs. G. and H., situate at (*State where*), is the place where I am to be served with notice of any proceeding relating to the money hereinafter mentioned, which I am desirous to pay into Court.

State the amount of money to be paid into Court, and the account to the credit of which it is to be placed (*z*)*; as thus:* 2. Under the provisions of the above-mentioned Act, I propose to pay into Court to the credit of "In the matter of the settlement, dated the —— day of ——, 188—, and made between (*State the parties*), proceeds of sale of the A. estate, and in the matter of the Settled Land Act, 1882," the sum of £—— (*a*), on account of the purchase money of the said A. estate settled by the said settlement.

State the name and address of the tenant for life under the settlement by whose direction the money is to be paid into Court (*b*)*; as thus:* 3. J. W. N., of L., in the county of E., is the tenant for life under the said settlement, and it is by his direction that I propose to pay the said sum of £—— into Court.

State the short particulars of the transaction in respect of which the money is payable; as thus (*b*)*:* 4. The said sum of £—— represents the purchase money of Lot —— of the said A. estate purchased by me at a sale by auction held at (*State where*) on the —— day of ——, 188—, for the sum of £——.

Sworn (*&c.: see* Form 9).

2268. Consent by person paying in to payment of dividends upon investment (*c*). [Dan. Pr. 2323, 2324.]

(*Title as in* Form 2256.)

I, E. F., of (*residence and addition*), the person named in an order made in this matter, dated the —— day of ——, 188—, do hereby consent to the dividends on the securities (*describe them*) representing the sum of £—— in the said order mentioned, being paid to J. W. N., the tenant for life under the above-mentioned settlement.

Dated —— day of ——, 188—.

(*Signed*) E. F.

(*z*) See Settled Land Act Rules, 1882, r. 11.

(*a*) Notwithstanding the terms of Settled Land Act Rules, 1882, r. 14, it seems open to question whether a purchaser, in order to obtain a good discharge, must not pay into Court the whole of his purchase-money without any deduction, leaving the question of costs to be dealt with on a subsequent application. A difficulty may sometimes occur with auctioneers who refuse to pay in deposits received by them; and where it is proposed to have the purchase-money brought into Court, tenants for life selling should be careful to make arrangements with them for the purpose.

(*b*) See Settled Land Act Rules, 1882, r. 11.

(*c*) *Ibid.*, r. 12. This consent will only be required in cases where the order provides for payment of the dividends to the tenant for life upon production of the consent in writing of the person directed by the tenant for life to pay capital money into Court.

2269.

Affidavit verifying signature to consent (*d*). [Dan. Pr. 2323, 2324.]

Title as in Form 2256; *other formal parts, as in* Form 6.

1. The signature "——" set and subscribed to the paper writing now produced and shown to me, marked A. (*e*), purporting to be the consent, dated the —— day of ——, 188—, of E. F., of ——, in the county of ——, to the payment to J. W. N. the tenant for life under the above-mentioned settlement, of the dividends to accrue on the sum of £—— (*describe the securities, and state the ledger credit to which they stand, as in the Paymaster's certificate*), is of the proper handwriting of the said E. F., as I know from having seen him sign the said paper writing.

2270.

Summons for approval of scheme for improvements (*f*). [Dan. Pr. 2325.]

Title as in Form 2256; *other formal parts as in* Form 2257, *paragraph* (*a*) *or* (*b*).

1. That the scheme left at my chambers this day for the execution of improvements on the lands settled by the above-mentioned settlement may be approved.

2. (*Add application for costs as in* Form 2258, *paragraph* 2.)

2271.

Summons for appointment of an engineer or surveyor (*g*). [Dan. Pr. 2326.]

Title as in Form 2256: *other formal parts as in* Form 2257, *paragraph* (*a*) *or* (*b*).

1. That M. N. of ——, in the county of ——, engineer [*or*, surveyor] may be approved as engineer [*or*, surveyor] for the purposes of section 26, sub-section (2) (ii.) of the above-mentioned Act.

2. (*Add application for costs as in* Form 2258, *Paragraph* 2).

2272.

Nomination of an engineer or surveyor by the trustees (*h*). [Dan. Pr. 2326.]

Title as in Form 2256.

We, C. D., of (*residence and addition*), and E. F., of (*residence and addition*), the trustees of the above-mentioned settlement for the purposes of the above-mentioned Act, hereby nominate M. N., of ——, in the county of ——, engineer [*or*, surveyor], for the purposes of section 26, sub-section (2) (ii.), of the said Act.

(Signed) C. D.
E. F.

(*d*) The affidavit must be made by a solicitor: see Settled Land Act Rules, 1882, r. 12.

(*e*) Exhibit it. For form of memorandum of exhibit, see Form 28.

(*f*) See 45 & 46 Vict. c. 38, s. 26 (1); Settled Land Act Rules, 1882, App. No. 12.

(*g*) See 45 & 46 Vict. c. 38, s. 26 (2), (ii.); Settled Land Act Rules, 1882, App. No. 13.

(*h*) See 45 & 46 Vict. c. 38, s. 26 (2), (ii.); Settled Land Act Rules, 1882, Ap . No. 14.

2273.
Summons for authority to apply a specified portion of capital money in improvements (*i*).
[Dan. Pr. 2326.]

Title as in Form 2256 : *other formal parts as in* Form 2257, *paragraph* (*a*) *or* (*b*).

1. That C. D. and E. F., the trustees of the above-mentioned settlement, for the purposes of the above-mentioned Act, may be directed to apply the sum of £—— out of the capital money arising under the said Act in their hands subject to the said settlement in payment for (*Describe the work or operation*), being the whole [*or*, part—*as may be*] of an improvement executed upon the lands subject to the said settlement, pursuant to a scheme approved by the said C. D. and E. F. under the said Act.

2. (*Add application for costs, as in* Form 2258, *paragraph* 2.)

2274.
Summons for application of fund in Court in improvements (*j*).
[Dan. Pr. 2326.]

Title as in Form 2256 : *other formal parts as in* Form 2257, *paragraph* (*a*) *or* (*b*).

1. That the sum of £—— may be ordered to be raised out of the £—— in Court to the credit of (*State what*) ; and that the same when raised may be paid to the applicant [*or as may be*], upon his undertaking to apply the same in payment for (*Describe the works or operation*) : being the whole [*or*, part—*as may be*] of an improvement executed upon the land settled by the above-mentioned settlement, pursuant to the scheme approved by order dated the —— day of ——, 188—.

2. (*Add application for costs, as in* Form 2258, *paragraph* 2.)

2275.
Summons by tenant for life to enforce, &c., a contract (*k*).
[Dan. Pr. 2327.]

Title as in Form 2256 : *other formal parts as in* Form 2257, *paragraph* (*a*) *or* (*b*).

1. That the applicant may be at liberty to enforce [*or*, carry into effect—*or*, vary—*or*, rescind—*as the case may be*] the contract entered into between the applicant of the one part, and C. D. of the other part.

2. Or that such directions may be given relating to the said contract as the Judge may think fit.

3. (*Add application for costs, as in* Form 2258, *paragraph* 2.)

2276.
Summons for application of money paid for a lease or reversion (*l*).
[Dan. Pr. 2328.]

Title as in Form 2256 : *other formal parts as in* Form 2257, *paragraph* (*a*) *or* (*b*) *or* (*d*).

1. That the sum of £——, being the proceeds of sale of a lease for years [*or*, life—*or*, a reversion—*or other interest, describing it*] settled by the above-mentioned settlement, may, pursuant to section 34 of the above-mentioned Act, be directed to be applied for the benefit of the

(*i*) See 45 & 46 Vict. c. 38, s. 26 (2), (iii.) ; Settled Land Act Rules, 1882, App. No. 15.
(*j*) See 45 & 46 Vict. c. 38, s. 26 (3) ; Settled Land Act Rules, 1882, App. No. 16.
(*k*) See 45 & 46 Vict. c. 38, s. 31 ; Settled Land Act Rules, 1882, App. No. 17.
(*l*) See 45 & 46 Vict. c. 38, s. 34 ; Settled Land Act Rules, 1882, App. No. 18.

parties interested under the said settlement in such manner as the Court may think fit.

2. (*Add application for costs, as in* Form 2258, *paragraph* 2.)

2277.

Summons for sanction of the Court to proceedings proposed for protection of settled land (*m*).

[Dan. Pr. 2328.]

Title as in Form 2256 : *other formal parts as in* Form 2257, *paragraph* (*a*) *or* (*b*) *or* (*c*).

That the sanction of the Court may be given to proceedings being taken for the purpose of opposing the passing of a bill which has recently been introduced into Parliament for the construction of a railway from —— to —— ; and which proposed line of railway is projected to pass through the land settled by the above-mentioned settlement, and will, if constructed, cause a serious deterioration in the value thereof.

2. That the costs, charges, and expense incurred or to be incurred in relation to such proceedings, and of this application, may be paid out of the property subject to the said settlement, and that for that purpose all necessary directions may be given.

2278.

Summons for appointment of trustees for the purposes of the Act (*n*).

[Dan. Pr. 2329.]

Title as in Form 2256 : *other formal parts as in* Form 2257, *paragraph* (*a*) *or* (*b*) *or* (*c*) *or* (*d*).

1. That G. H., of (*residence and addition*), and I. J., of (*residence and addition*), may be appointed trustees under the above-mentioned settlement for the purposes of the above-mentioned Act.

2. (*Add application for costs, as in* Form 2258, *paragraph* 2.)

2279.

Evidence in support of summons to appoint trustees.

See the following Forms, which can be readily adapted :

Affidavit of eligibility of proposed trustees : Form 1273 (*o*).

Consent to act : Form 1274.

Affidavit verifying signature thereto : Form 1275.

(*m*) See 45 & 46 Vict. c. 38, s. 36 ; see also, *Ibid.*, 64, and schedule, repealing 40 & 41 Vict. c. 18, s. 17.

(*n*) See 45 & 46 Vict. c. 38, s. 38 ; Settled Land Act Rules, 1882, 4 ; App. No. 19. As to the number of trustees, see 45 & 46 Vict. c. 38, s. 39 ; as to the receipts of trustees, *Ibid.*, s. 40 ; as to the protection of trustees, *Ibid.*, ss. 41, 42, 43 ; as to notice to be given to trustees, *Ibid.*, s. 45 ; *Ray's Settled Estates*, 25 Ch. D. 464 : 32 W. R. 458 ; 47 & 48 Vict. c. 18, s. 5 (1) ; Wolstenholme & Turner, 100*b*. Evidence is required as to the fitness of the proposed trustees, and their consent to act ; and this, even if the persons proposed are trustees of the settlement, though not for the purposes of the Act. The Court will not appoint as a trustee for the purposes of the Act the solicitor of the tenant for life : *Wheelwright* v. *Walker*, 23 Ch. D. 752 : S. C. *sub nom. In re Walker's Trusts*, 31 W. R. 716 ; even though he was an original trustee under the settlement : *Re Kemp*, 24 Ch. D. 485 : 31 W. R. 930 ; nor the tenant for life : *Re Harrop*, 24 Ch. D. 717.

(*o*) As a rule two witnesses to fitness are required ; it is understood, however, that Pearson, J., only requires an affidavit of one such witness to be produced.

2280. Summons for directions as to matter in difference between a tenant for life and the trustees of the settlement (*p*). [Dan. Pr. 2330.]

Title as in Form 2256 : *other formal parts as in* Form 2257, *paragraph* (*a*) *or* (*b*) *or* (*c*).

1. That it may be declared that (*Set out the declaration required*).

2. (*Add application for costs, as in* Form 2258, *paragraph* 2—*or as the circumstances require.*)

2281. Summons for advice and direction of the Court (*q*). [Dan. Pr. 2332, 2333.

Title as in Form 2256 ; *other formal parts as in* Form 2257, *paragraphs* (*a*) *to* (*h*).

for the opinion, advice, and direction of the Judge on the following questions :—

1. Whether ——.
2. Whether ——.
3. Whether ——.

(*or, if the questions involve complicated facts*)

for the opinion, advice, and direction of the Judge on the facts and questions submitted by the statement left in my Chambers this day.

(*Add application for costs, as in* Form 2258, *paragraph* 2.)

2282. Summons for appointment of a person to exercise powers on behalf of an infant (*r*). [Dan. Pr. 2333.]

Title as in Form 2256 ; *other formal parts as in* Form 2257, *paragraph* (*b*).

2. That the powers conferred upon a tenant for life by sections 6 to 13, both inclusive, and sections 16 to 20, both inclusive, of the above-mentioned Act [*or such other powers as it is desired to exercise*], may be exercised by the said X. Y. on behalf of the said A. B. (*the infant*) during his minority.

3. (*Add application for costs, as in* Form 2258, *paragraph* 2.)

(*p*) See 45 & 46 Vict. c. 38, s. 44 ; Settled Land Act Rules, 1882, 4; App. No. 20.

(*q*) See 45 & 46 Vict. c. 38, s. 56 ; Settled Land Act Rules, 1882, App. No. 21.

(*r*) See 45 & 46 Vict. c. 38, s. 60 ; Settled Land Act Rules, 1882, App. No. 22 ; Wolstenholme & Turner, 76. Where there is an existing settlement of the land and also trustees of such settlement within the meaning of the Act, an order to the above effect will enable the persons appointed to concur on behalf of the infant in a sale of the land. But a difficulty is sometimes felt in cases where there is in fact no settlement other than that created by section 59. Thus, where a coparcener dies intestate, leaving an infant heir-at-law, such infant is regarded as tenant for life (s. 59), and persons appointed under s. 60 may act for him in such capacity. There is, strictly speaking, no settlement, although the land is deemed settled land (s. 59), and of course there are no trustees of the settlement for the purposes of the Act. In such cases the summons should be intituled as in Form 2256, and the above summons should be supplemented by asking in the first place that certain persons may be appointed trustees of the settlement for the purposes of the Act (*Re Wells*, W. N. (1883), 111 ; 31 W. R. 764 : *Re Price, Leighton* v. *Price*, 27 Ch. D. 552 ; 32 W. R. 1009). The section requires the Court to exercise a discretion,

2283.
Summons for directions as to service of a petition (*s*).
[Dan. Pr. 2331.]

Title as in Form 2256 ; *other formal parts as in* Form 2257.

That directions may be given as to the persons to be served with the petition presented in the above matter on the —— day of ——, 188—.

2284.
Summons by tenant for life for liberty to exercise powers conferred by the Act, notwithstanding settlement by way of trust for sale (*t*).

Title, as in Form 2256 ; *other formal parts, as in* Form 2257, *paragraph* (*a*) *or* (*b*).

1. That the applicant [*or, in the case of an infant*, that the said X. Y. during the infancy of the said A. B.] may be authorized to exercise the powers of sale [*or as may be*] conferred upon a tenant for life by the above-mentioned Act, pursuant to section (*State the particular section of the Act conferring the powers which it is desired to exercise, as thus :* 3 of the said Act).

2. (*Add application for costs, as in* Form 2258, *paragraph* 2.)

Section XLIV.—The Married Women's Property Act, 1882 (*u*).

(*Dan. Pr.*, pp. 2334—2344, ccccxxviii.)

2285.
Petition for appointment of a trustee of a settlement policy (*v*).
[Dan. Pr. 2341.]

In the High Court of Justice,
Chancery Division.
(*Name of Judge* (*vv*).)
In the matter of the trusts of a policy of assurance on the life of A. B., deceased, effected in the —— Office, No. ——, dated the —— day of ——, 188—.

not only as to the person by whom, but also as to the manner in which the powers of the Act are to be exercised on behalf of the infant ; so that it is necessary to specify the particular powers which are sought in each case. The Court can authorize trustees, appointed for the purposes of the Act, to sell out of Court the property of their infant *cestuis que trust : In re Price, Leighton* v. *Price*, 27 Ch. D. 552 ; 32 W. R. 1009.

(*s*) See Settled Land Act Rules, 1882, r. 6 ; App. No. 23.

(*t*) See 45 & 46 Vict. c. 38, s. 63 ; Wolstenholme & Turner, 79—81 ; *Earle and Webster's Contract*, 24 Ch. D. 144 : 31 W. R. 887 ; *Taylor* v. *Poncia*, 25 Ch. D. 646 : 32 W. R. 335 ; Settled Land Act, 1884 (47 & 48 Vict. c. 18), s. 7 ; Turner & Wolstenholme, 100*d*. The application is required only in cases within s. 63 of the Settled Land Act, 1882.

(*u*) See 45 & 46 Vict. c. 75 ; amended (as to s. 16) by 47 & 48 Vict. c. 14 ; see Wolstenholme & Turner's Conveyancing Acts, 1881, 1882, &c., pp. 147 *et seq.* ; Morgan, 192—200 ; White & Blackburn. For a short summary of the material provisions of the Married Women's Property Act, 1882, see p. 61. As to the general effect of the Act, see Wolstenholme & Turner, 6—10.

(*v*) See 45 & 46 Vict. c. 75, s. 11. It would seem that the application must be made by petition, for the Act provides that, in cases where the appointment of a trustee is necessary, such trustee may be appointed by any Court having jurisdiction under the provisions of the Trustee Act, 1850, or the Acts amending and extending the same ; and by the Trustee Acts, the appointment must be made on petition, see 13 & 14 Vict. c. 60, s. 40.

(*vv*) See R. S. C. Ord. V. 9 (*d*).

And in the matter of the Trustee Act, 1850, and of the Act 15th & 16th Vict. c. 55, intituled "An Act to extend the provisions of The Trustee Act, 1850."

And in the matter of the Married Women's Property Act, 1882 (*w*).

To Her Majesty's High Court of Justice.

The humble petition of J. B., of ——, in the county of ——, widow of and relict of A. B., of the same place, deceased.

Showeth as follows:

(*Show that the deceased had effected on his own life a policy of assurance expressed to be for the benefit of his wife, or of his children, or of his wife and children, or any of them: the death of the insured: that there is no trustee of the policy, and that it is expedient to appoint a trustee thereof: and the person or persons proposed as trustee or trustees, or as new trustee or trustees, as the case may be* (*x*).)

Your petitioner therefore humbly prays as follows:

1. That the said C. D. [*or as may be*] may be appointed a trustee for the purpose of receiving from the —— Assurance Society the sum of £—— assured by the policy of assurance effected in that office on the life of the said A. B., deceased, dated, *&c.*, and numbered ——, and purporting to be effected for the benefit of your petitioner, under the provisions of the Married Women's Property Act, 1882: such sum to be held by the said C. D. in trust for your petitioner absolutely (*y*).

Or that (*Continue as in* Form 40; *and add foot note*, Form 41).

2286. Summons for decision of question between husband and wife (*z*). [Dan. Pr. 2342.]

188—. B. No. ——.

In the High Court of Justice.

Chancery Division.

(*Name of Judge* (*a*).)

In the matter of A. B., the wife of C. B.

And in the matter of the Married Women's Property Act, 1882.

Other formal parts: see Form 1078.

(*w*) As to this title, see *In re Soutar's Policy Trust*, 26 Ch. D. 236: 32 W. R. 701.

(*x*) See 45 & 46 Vict. c. 75, s. 11. A similar trust will be created by a policy effected by a married woman on her own life expressed to be for the benefit of her husband, or of her children, or of her husband and children, or any of them.

(*y*) For form of order under Married Women's Property Act, 1870 (33 & 34 Vict. c. 93), s. 10, see *Re Turner*, 2 Seton, 663, No. 6. For order appointing trustees on petition of widow and children, see *Re Mellor's Policy Trusts*, 6 Ch. D. 127.

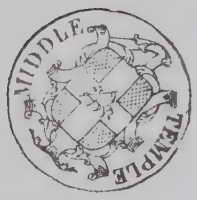
(*z*) See 45 & 46 Vict. c. 75, s. 17. Unless made in a pending proceeding the application is made by originating summons. As to an application under this section for an order to transfer to a husband an investment made by a married woman by means of moneys of her husband, without his consent, see *Ibid.*, s. 10; Dan. Pr. 2343.

(*a*) See R. S. C. Ord. V. 9 (*b*).

on the part of the above-named C. B., of (*residence and addition*):

Or, of the above-named A. B., the wife of the above-named C. B., of (*residence and addition*):

that (*Describe the question to be determined; as thus:* it may be declared that the property bequeathed to the said A. B. by the will of G. H., late of, *&c.*, and dated, *&c.*, does not belong [*or*, belongs] to the said A. B., for her separate use, within the meaning of the above-mentioned Act); and that all necessary and consequential directions may be given.



INDEX.

*** *References to the Forms are printed thus* [479].

ABANDONMENT :
of claim by amendment of pleadings : payment of defendant's costs upon—notice of motion or summons for, [477], [478], [479]

ABATEMENT,
certificate by solicitor of, [191]
change or transmission of interest or liability of party does not cause, 84 (*a*)
And *see* SUCCESSORS ; CARRYING ON PROCEEDINGS.

ABSTRACT OF TITLE, 544, 562. *See* SALE UNDER JUDGMENT OR ORDER.

ACCEPTANCE,
sum paid into Court, of, notice of, [445] ; judgment for costs thereon, [446]
service of writ of summons, of, and undertaking to appear thereto, [366] ; the like by indorsement, [367]

ACCOUNT, 506—525
accountant, employment of, 507 (*c*)
additional—summons for, [1164]
administration—summons for, 175 (*h*) ; [430]
administrator : by—affidavit verifying, [1235] ; and non-receipt of anything further, [1238]
Chief Clerk's certificate as to, [1410]
admission of assets by or on behalf of executor or administrator, [1217]
annuities, arrears of, Chief Clerk's certificate of, 603 (*u*), [1410 (4)]
attachment for non-compliance with order to leave : leave to issue—notice of motion or summons for, [1221]. *See* chambers, *infra*.
bill of costs in—request to Taxing Master to moderate, [1244], [1245] ; to Taxing Master of another Division, [1246]
certificate of Chief Clerk as to, [1410]
Chambers : in, 506—525 ; summary of material provisions of R. S. C. 1883, as to, 506—507 (*b*)
affidavit verifying, [1231] ; exhibits to, [1232], [1233]
executor of executor, by, [1239]
joint executors and trustees, by, [1231] ; and non-receipt of anything further, [1237]
sole executor, by, or administrator, [1235] ; trustee, [1236] ; and non-receipt of anything further, [1238]
supplemental, [1234]

ACCOUNT. Chambers: in—*continued.*
attachment for non-compliance with order to leave account at—leave to issue—notice of motion or summons for, [1221]
affidavit in support, [1222]; form of writ, [996], [1224]
discharge from custody on leaving account—petition of course for, [1226]; motion paper for, [1228]
summons for, [1230]; affidavit in support, [1229]
indorsement of name and address of party issuing, [998], [999], [1225]
præcipe for writ, [995], [1223]
fees on, 507 (*c*)
form of, [1232], [1233]
leaving and filing affidavit—notice of, [1240]
short order for—direction for, [1218]; summons for, [1219]
time for: extension of—summons for, [1220]
vouching—special directions as to summons for, [1243]
directions, special as to taking or vouching an account—summons for, [1243]
District Registry: in, 462 (*c*): notice of motion or summons for, [1156]
elegit, under—notice of motion or summons by judgment debtor for, [985]
evidence produced on—statement of, 604, [1410]
executors: by—affidavit verifying, [1231]; by sole executor or administrator, [1235]; supplemental, [1234]
foreclosure—summons for, 176; [430]
four-day order for—directions for, [1218]; summons for, [1219]
funeral expenses: of—affidavit by executor verifying, [1231 (2)]
guardian of estate, of, and affidavit verifying same, [1380]
indorsement of claim for, 125. *See* INDORSEMENT.
leaving at Chambers. *See* Chambers, *supra.*
legacies, of, Chief Clerk's certificate as to, 603 (*q*), [1410 (4)]
mortgage, writ of summons for, [208], [209]
mortgagee in possession—affidavit by, verifying his accounts of principal and interest, repairs and rents without rests, [1531]; Chief Clerk's certificate of result of, 660 (*h*), [1533]. And see FORECLOSURE ACTION.
mortgagee not in possession, 656 (*c*); affidavit by, of amount due to him under a judgment in foreclosure, [1529]; Chief Clerk's certificate as to amount due to, [1530]
notice of having left and filed affidavit, [1240]
notice of motion or summons for, 258; [642]
partnership—writ of summons for, under Order III. r. 8, 175; [430]
investigation of—accountant's affidavit of, [1569]
Chief Clerk's certificate as to, [1570]
pay office, in, 742 (*g*); transcript of accounts—request for, [1724]
payment into court founded on admission in, application for—affidavit in support of, [1740]
personal estate at death: of, [1231], Sched. 1
affidavit of joint executors and trustees verifying, [1231 (1)]
of sole executor or administrator, [1235]
personal estate got in: of, affidavit of joint executors and trustees verifying, 1231 (3)]: and non-receipt of anything further, [1237]
by sole executor or administrator, [1235]: and non-receipt of anything further, [1238]
personal estate outstanding: of, [1231], Sched. 2
affidavit of joint executors and trustees verifying, [1231 (4)]: of sole executor or administrator, [1235]
Chief Clerk's certificate of, 603, [1410 (5)]
conversion of—leave for summons for, [1250]

ACCOUNT—*continued.*
real estate at death : of, [1231], Sched. 3
affidavit of joint executors and trustees verifying, [1231 (5)]
receiver by, 732—739. See RECEIVER.
redemption—summons for, 176, [430], [431], [432]
rents and profits : account of, [1233]
affidavit of joint executors and trustees verifying, [1231 (7)] ; and non-receipt of anything further, [1237] ; of sole trustee, [1236] ; and non-receipt of anything further, [1238] ; supplemental, [1234]
Chief Clerk's certificate of, 604, [1410 (8)]
sequestrators, by, notice of motion or summons for, [1042]
short order for—direction for, [1218] ; summons for, [1219]
summons for : where writ indorsed under Ord. III. r, 8, 175 (*g*), 176 [430], [431], [432]
administration, 175
foreclosure, 176
partnership, 175
redemption, 176
supplemental account of personal estate and rents and profits—affidavit by joint executors and trustees verifying, [1234]
surcharge, [1241] ; notice of, [1242]
taking in District Registry—summons for, [1156]
time for, extension of—summons for, [1220]
transcript of, in Pay Office books—request for, [1724]
trust—writ of summons for, [330]
vouching : special directions as to—summons for, [1243]
writ of summons for, [261]

ACCOUNTANT—affidavit by as to result of partnership accounts, [1570]

ACCOUNTS AND INQUIRIES :
additional—summons for, [1164]
District Registry, in, 462 ; summons for, [1156]
And see ACCOUNT ; INQUIRIES.

ACKNOWLEDGMENT, of receipt of conveyance, [1342]
judgment or order, of satisfaction of, [918]
lis pendens—of satisfaction of, [362]
married woman, by—certificate of, requisition for search for, [1212]

ACT OF PARLIAMENT : bill for, settlement of, 578, 579. See CHAMBERS, JUDGE'S.

ACTION :
advance of—notice of motion for, [828] ; premature hearing—consent to, [827] ; authority to institute and prosecute, [195]
commencement before 1852—certificate of, [2]
compromise of : certificate of, when standing for trial, [826]
consent to withdrawal after, [824]
leave for—summons for, [1253]
conduct of, 461, 462. *See* CONDUCT OF CAUSE.
consolidation of, 816, 819. *See* CONSOLIDATION OF ACTIONS.
constable against or officer—demand of perusal and copy warrant, [194]
defend—leave to—summons for, [1249]
discontinuance of, 255—257. *See* DISCONTINUANCE.

ACTION—*continued.*
dismissal of, 248 (*c*); for want of prosecution, 248, 249; by or against successors, 851. *See* DISMISSAL OF ACTION.
election by plaintiff where one action is foreign—notice of motion for, [1978]
entry of, for trial, 329—331; summary of material provisions of R. S. C. 1883, as to, 329 (*u*); *præcipe* on, [821]: *see* trial *infra*, and TRIAL.
leave to institute—summons for, [1248]
notice of, [192]; indorsement on, [193]
in formâ pauperis, 33—36. *See* PAUPER.
institute—leave to, summons for, [1248]
pleading matters arising pending, 193—195. *See* PLEADINGS, FURTHER.
pleadings in, 190—257. *See* PLEADINGS.
premature hearing of—consent to [827]
receiver, by, 525, 526, 527. *See* RECEIVER.
removal of, 826—836. *See* REMOVAL OF CAUSE.
stay of proceedings in, 845—850. *See* STAY OF PROCEEDINGS.
transfer of, 819—823. *See* TRANSFER OF CAUSE.
trial—entry of, for, 329—331. *See* TRIAL; entry of and entry, *supra.*
trial, withdrawal from, after entry, 329, [824]; leave for—notice of motion or summons for, [825]
And *see* TRIAL.

ADDING PARTIES, 65, 66. *See* PARTIES.

ADDITIONAL ACCOUNTS AND INQUIRIES—summons for, [1164]

ADDRESS:
writ of summons issued by solicitor, on, 2 (*m*), [3], [332]; where issued by plaintiff in person, [4], [333]
notice of change of, 3, [5]

ADJOURNMENT,
Chambers, to—summons to proceed on, [1370]
Court, into, of further consideration, note of, [1429]
setting down in Registrar's book—notice of, [1430]
summons, of, to vary Chief Clerk's certificate—note of, [1416]
trial of, 333. *See* TRIAL.

ADJUDICATION IN BANKRUPTCY—affidavit of search for, 499, [1207]

ADMINISTRATION ACTION:
administration in bankruptcy of deceased debtor's estate—transfer of proceedings for—notice of motion or summons for, [66]; affidavit in support, [67]
Chief Clerk's certificate in, [1410]
consolidation of administration actions—where no judgment, notice of motion or summons for, [1879]
executors—management of property during pendency of action, 525—531. *See* trustees, *infra.*
new trustees: power of appointing—leave to exercise—summons for, [1277]
stay of proceedings in, where judgment given in another action—notice of motion or summons for, [1880]

ADMINISTRATION ACTION—*continued.*
transfer after administration order—motion paper for, [1892]; summons for, [1893]
trustees—management of property during pendency of action, 525—531
action—leave to compromise—summons for, [1253]
to defend—summons for, [1249]
to institute—summons for, [1248]
business—leave to carry on testator's—summons for, [1251]
compromise of claim or action, leave for—summons for, [1253]
copyholds—admission to—leave to take—summons for, [1257]
debts—leave to pay—summons for, [1252]
drainage works or repairs—leave to execute—summons for, [1254]
enfranchisement—agreement for—summons to confirm, [1256]. And *see* LEASE.
lease—agreement to grant—summons for approval of, 529, [1259]
outstanding estate—leave to convert—summons for, [1250]
protection of testator's estate on an application to Parliament—leave for—summons for, [1255]
repairs: leave to execute—summons for, [1254]
writ of summons in, by creditor, [205]; by legatee, [203]

ADMINISTRATION, LETTERS OF:
allegation of grant of—common form of, in petition to carry on proceedings, [179]

ADMINISTRATION OF ESTATES AND TRUSTS ON ORIGINATING SUMMONS, 455—461; summary of material provisions of R. S. C. 1883, as to, 455—457 (*a*)
administration of the personal or real and personal estate of a deceased person: originating summons for, [1148]
affidavit in support of summons for administration,
annuitant, by an, [1151]
creditor, by a, [1150]
legatee, specific, pecuniary, or residuary, by a, [1151]
next of kin, by a, [1152]
administration of a trust—originating summons for, [1149]; affidavit in support, [1153]
determination of a question or matter arising in the administration of a deceased person's estate, summons for, [1146]
determination of a question or matter arising in the administration of a trust, summons for, [1147]
And *see* SUMMONS, ORIGINATING.

ADMINISTRATOR:
action against—writ of summons in, [329]. *See* EXECUTOR.
management of property by, 525—531. *See* ADMINISTRATION ACTION.

ADMISSION:
agreement: by, 260—263, [645], [646]. Schedules, *ibid.*
assets: of, by an executor or administrator, [1145], [1247]
documents: of—notice to make, [651]
service of—affidavit of, and refusal to admit, [655]
facts of—notice to make, [649]; service of affidavit of, and refusal to admit, [655]

ADMISSION—*continued.*
form of, by agreement, [645], [646]
of documents, [653]
of facts pursuant to notice, [650]
judgment on—notice of motion or summons for, under Order XXXII. r. 6, 245 (*a*), [614]
notice for, of documents, [651]
of facts, 265, [649]. Summary of material provisions of R. S. C. 1883, as to, 264 (*d*)
facts stated in pleadings: of—notice of, 264, [647], [648]
payment into Court on, in account—affidavit in support of application for, [1740]
signature of—affidavit of, [654]
time for making: extension of—summons for, [652]

ADMISSION TO COPYHOLDS:
leave to take—trustees' summons for, [1257]. *See* COPYHOLDS.

ADVANCE OF CAUSE, 332. *See* ACTION.

ADVANCEMENT OF INFANT, 588—591. *See* INFANT.

ADVERTISEMENT,
action, of, instead of service of writ of summons—motion paper for, [368]. And *see* writ of summons, *infra*.
Chief Clerk's certificate—statements as to, in, [1410 (2)]
creditors for, to come in and prove against estate of deceased person, for creditors, [1170]
for persons other than creditors, [1165]
judgment—special directions as to service of, by, [160]
Merchant Shipping Acts, for claimants under a judgment in action for limitation of liability under, [2177]
non-receipt of any claim under—affidavit of, [1175]
notice of judgment by, [164 (a)]
Parliamentary Deposits Act, under, creditors, for—where company insolvent and ordered to be wound up or a receiver appointed, [2089]
landowners, for, or road authorities claiming compensation, [2088]
partition action—notice of judgment in, by, [1511]
distribution of proceeds of sale, of intended, by: where order made dispensing with service, [1514]
Railway Companies Act: of scheme under, [2108]
petition for confirmation of scheme under, of, [2115]
reduction of capital by company, of—and for creditors, on, [2196]; affidavit verifying list, [2193]
day fixed for hearing petition for—of notice of, [2203]
order for: of, on petition for reduction, [2191]
registration of order confirming reduction and minute—notice by, of, [2206]
sale by Court by auction: of, [1297]
tender by: of, [1326]
Settled Estates Act, under: notice by—for insertion in newspapers, [2244]
Tramways Act: creditors, for, under, where promotors are an insolvent company ordered to be wound up, or a receiver appointed, [2218]
road authorities, for, claiming compensation under, [2217]
writ of summons: of, instead of service of—motion paper for, [368]
summons for, [369]; affidavit in support, [370]

AFFIDAVIT:
abroad—foreign magistrate, verifying signature of, [27]
abstract of title—of examination of—by solicitor, [1200]
by another person, [1201]
accounts—verifying, [1231]
funeral expenses: of, [1231 (2)]
personal estate of—by several representatives, [1231]; by sole, [1235]
executor of deceased executor—negative—by, [1239]
non-receipt of further, of—by several representatives, [1237]; by sole, [1238]
supplemental, [1234]
receiver: of, [1705]
rents and profits: of—by several trustees, [1231]; by sole, [1236]
of non-receipt of further—by several trustees, [1237]; by sole, [1238]
address of deponent, 4 (*e*)
administration of deceased person's estate—in support of summons for, by creditor, [1150]
legatee—by, [1151]
next of kin—by, [1152]
administration of trust—in support of summons for, [1153]
administration proceedings—transfer of, for administration in Bankruptcy—on application for, [67]. *See* TRANSFER.
admissions of documents—of signature of, [654]
affidavit and affirmation:
foot note to, [26]
joint—formal parts of, [25]
notice of filing, [29]
affirmation and—formal parts of joint, [25]. And *see* AFFIRMATION.
alterations in, 3 (*a*)
another case: in—notice of intention to use, [659—660]
appearance by guardian *ad litem* of infant: for entry of, [92], [388]
appearance: by person not named as defendant—on application to enter, after judgment, [400]
appearance: on application to set aside, by plaintiff, [413]
unauthorized—by defendant, [411]
apportionment of deficient fund—verifying, [1270]
apprenticeship of ward of Court—on application for, [1390]
arbitration—submission to—verifying signatures to, [2122]
attachment—on application for, [994]
accounts—for not leaving, [1222]
attornment—to receiver—on application for, [1697]
to sequestrators, [1040]
auctioneer—as to fitness of, [1296]
solvency of, as to, [1303]
award—of publication of, [2131]
biddings: as to, [1298]. *See* SALE UNDER JUDGMENT OR ORDER.
bill for an Act of Parliament—verifying print of, as settled at chambers, [1368]
blind, or illiterate person: of—jurat and oath, [11]
certiorari to remove action to County Court, on application for, [1908]
to remove judgment of County Court into High Court for purpose of issuing execution thereon—on application for, [1916]
cestuis qui vie—on motion for production of—out of Court, [2139]
production in Court—for, [2141]
final order on default in production—for, [2143]
Chambers: in, 441—442. *See* EVIDENCE IN CHAMBERS.

AFFIDAVIT—*continued.*
charging order *nisi*—on summons for, [1051]
Charitable Uses Act—on application to enrol deed under, [2045], [2047]
commission for examination of witnesses abroad—on application for, [717]
translation of depositions, verifying, [732]
committal for breach of judgment or order—on motion for, [1014]
Companies Act, reduction of capital under, 959—971. *See* COMPANIES ACT, 1867.
concurrent writ of summons—on application to set aside, [379]
conditional contract—on application to confirm, [1363]
contents of, 3 (*a*)
conveyance, of delivery to purchaser, [1344]
copies of, 3 (*a*); supplied to other persons, *ibid.*
copyholds—vesting order of—verifying consent of lord or lady of manor to, [2072]
correspondence—copy of—verifying, [669]
costs: of unnecessary, 3 (*a*)
County Court, for transfer to, *see* transfer, *infra.*
creditors' claims—of investigation of, [1173]
non-receipt of, [1175]
result of notice for, [1191]
cross-examination on, 280—281. *See* CROSS-EXAMINATION.
de bene esse—to examine witness, on application, [787]
depositions taken on—for leave to use, [792]
debt—to prove, [1179]
bill of exchange; on, [1183]
bond; on [1181]; to secure annuity, [1182]
cheque; on, [1185]
covenant to pay; on, [1180]
deceased person's estate, due to—by personal representative, [1187]
judgment; on, [1179]
mortgage; on, [1180]
promissory note; on, [1184]
simple contract; on, [1186]
Debtor's Act—on application to commit to prison under, [1666]
defence—further—leave to deliver—on application for, [462]
Defence Acts—on application under, for investment and payment of income, [2169]
description of deponent, 4 (*d*), (*e*)
discharge from custody—on application for, after leaving accounts, [1229]
dismissal—action, of, for want of prosecution—on application for, [616]
originating summons, of, for want of authority—on application for, [1098], [1961]
summons, ordinary, of, taken out without authority—on summons for, [1098]
documents—as to, [655], [666]
form of, [1840]; when possession of any denied, [1841]
irrelevant matter—of sealing up, [1849]
production for inspection—on application for, [1853]
trial at assizes—production at—on application for, [1863]
erasures, in, 3 (*a*)
evidence, by, 276—282. *See* EVIDENCE BY AFFIDAVIT.
examination of engrossment of deed settled in Chambers—of, [1205], [1282]
examination of married woman, and certificate thereof—verifying signatures to, [1799]
examiner, special—on application for appointment of, [703], [707]
under Settled Land Act, [2234]
execution of deed—verifying, [667], [1216], [1282]

AFFIDAVIT—*continued.*
execution under 7 Geo. 4, c. 56, s. 13—leave to issue on application for, [908]
under 8 & 9 Vict. c. 16, s. 36, [912]
execution—member of banking company, against—leave to issue—on application for, [910]
executors, by, [1231]. *See* accounts, *supra.*
exhibits: to, memorandum of identity of, [28]
filing, 3 (*a*)
notice of, 15 (*a*), [29]
footnote: to, [7]; to affirmation, [17]
foreign language: in—verifying translation of, [14], 10, (*d*)
foreign official—verifying signature of, [27]
foreigner: of—jurat and oath: when taken in English through interpreter, [12]
when taken in foreign language, [13]
form of, 4 (*b*)
formal parts of—in case of one deponent, [6]; of two or more, [8]
garnishee order *nisi*—on application for, [1056]
substituted service of, for, [1058], [990]
guardian of infant—on application for appointment of, [1375]
new one—for appointment of, [1382]
removal of—for, [1382]
guardian and maintenance of person of unsound mind, not so found—on application for, [1408]
guardian *ad litem* to infant defendant—on application to assign, by plaintiff, [95]
to appoint new—by defendant, [99]
guardian *ad litem* of lunatic—where committee adversely interested, on application for, by defendant, [121]
new guardian—on application for, [126]
guardian *ad litem* of person of unsound mind, not so found, on application for, by defendant, [124]
by plaintiff, [131]
respondent to petition—where, [129]
habeas corpus ad testificandum: in Court—on application for, [746]
Chambers: at, [1113]
handwriting—to prove, [668]
heirship—to prove, [1168]
incumbrances; as to—by beneficiary, [1194]
by joint executors and trustees, [1231]
as to notice of—by executor or trustee, [1195]
infant defendant—service of writ on, personally, in support of application for leave for, [89]
approve service on, on application to, [91]
Infants Settlements Act—on summons under, [1404]
interest on debts—of subsequent, [1809]
interlineations in, 3 (*a*)
interpleader summons, on application for, [1577]
at instance of sheriff, [1579]
investment in purchase or mortgage of land—on summons for, [1199]
judgments absolute—to make: where no cause shown, [107]
judgment—to set aside—for default of appearance, on application by defendant, [434]
for default of defence, [631]
for irregularity, [436], [633]
judgment—verifying signature to certificate of, [924]

AFFIDAVIT—*continued.*
judgment of inferior Court—to remove to High Court—under 1 & 2 Vict. c. 110—on application for, [1930]
under 19 Geo. 3, c. 70, for purposes of execution, [1932]
judgment under Ord. XIV.—liberty to sign final—on application for, [440]
in answer to, [441]
jurat to, [9—13]; and *see* JURAT.
kindred—to prove, [1168]
Lands Clauses Consolidation Act—on application for payment out—as to title of applicant, [2096]
lease—on application to approve agreement to grant, [1260]
grant—on application to, [1260], [2162]
Legacy Duty Act—on application for payment out of fund, paid in under, [2153]
life of payee, as to, [1773]
list of plaintiff's, [685]; defendant's, [686]; in reply, [687]
lotting, as to mode of, on sale by Court, [1295]. *See* SALE UNDER JUDGMENT OR ORDER.
lunatic—special service of writ on, on application to approve, [116]
unsound mind, on person of, not so found, special service of writ, on application to approve, [117]
maintenance of infant—on application for, [1387]
marriage—proving, [1167], [1402]
Marriage Act—on application for approval of marriage, under, [1397]
forfeiture, to found action of under, by parent or guardian, [1398]
Mayor's Court—judgment in—verifying, [1928]
mortgagee: by—of amount due—when not in possession, [1529]
when in possession, [1531]
of non-payment on redemption day—when mortgagee attended in person, [1539]
when by attorney, [1540]
ne exeat—on application for, [1658]
new trustees—of elegibility of proposed, [1273]
signatures of, to consent to act—verifying, [1275]
next friend of infant—on application to approve new, [71], 40 (*d*), (*e*)
next friend of lunatic—on application for, where committee adversely interested, [109]
next friend of person of unsound mind not so found—on application for, [110]
oath to—where one deponent, [9]; two or more deponents, [10]; and *see* OATH.
office copies of, 3 (*a*) 4
open biddings—on application to, [1359]. *See* SALE UNDER JUDGMENT OR ORDER.
Palatine Court—order of—enforcing in High Court of Justice—on application for, [929]
Parliamentary Deposits Act—on application under—verifying signatures of chairman of committee, or speaker, or deputy speaker, [2078]
signatures of applicants to summons under, verifying, [2079], [2081]
partnership accounts—of accountant as to, [1569]
pauper—on application for leave to sue as, by plaintiff, [59]; by plaintiff's solicitor, [59a]; to defend as, [63]
payment into Court—on admission in account—on summons for, [1740]
interest or dividends—verifying, [1742]
payment out of Court—of payee being alive, [1773]
payment out to personal representatives named in order—on application for, [1805], 782 (*c*)
to survivor or survivors, [1806]

AFFIDAVIT—*continued.*
perpetuate testimony—on motion to use evidence taken in suit to, [1573]
possession—writ of—on application for, [1062]
poverty, of—on appeal to House of Lords, [1482]
printing, 4 (*a*) (*b*)
purchaser's conveyance—of delivery of, to him, [1344]
Railway Companies Act, 1867—inability of company to meet engagements—of truth of declaration of, [2103]
reading—notice of, [30]
receiver—of fitness of proposed, [1682]
as to property to be received by, [1681]
redemption action—dismissal of, in default of payment of amount found due, on application for, [1545]
reduction of capital and shares, Companies Act, 1867—petition under, verifying list of creditors, [2193]
of result of notice to creditors, [2197]
reply—further; leave to deliver—on application for, [462], [463]
reserved bidding—as to, 1298
restraint on purchase-money—on application for discharge of, [1346]
sale by Court—as to mode of lotting, [1295]
of result of, where one lot and reserved bidding, [1317]; where one lot, and no reserve, [1320]
where several lots and reserved biddings, [1309]; where several lots and no reserves, [1313]. And *see* SALE UNDER JUDGMENT OR ORDER.
schedule to, should be placed before jurat, 5 (*g*)
scientific person—verifying report of, [1139]
searches—of, on investment in purchase or mortgage of land, [1207]
security for costs in action, on application for, [1936]
Companies Act, under, 1862, [1940]
insufficient given—on application as to, [1950]
proposed obligor of, in justification, [1944]
new security—as to on death or bankruptcy of obligor, [1952]
increased—of, on application for, [1954]
service of. *See* AFFIDAVIT OF SERVICE.
service out of jurisdiction, judgment, notice of, on application for, [162]
service out of jurisdiction—on summons for, [1088]
writ of summons: leave to issue—on application for, [345], [372]
on party necessary to action against another served within jurisdiction, [373]
to discharge order for, on foreigner out of British dominions, [383]
Settled Estates Act, 1877—of no previous application made to Parliament, [2224]
guardian of infant under—on appointment of, [2227]
guardian of infant tenant in tail, on application of for leave to make or consent to application or give notification, [2229]
special examiner, on appointment of, [2234]
verifying signatures to examination, and certificate, [2237]
Settled Land Acts—on application under—verifying title, [2263]
payment in of purchase-money under—on summons for, [2267]
payment of dividends to tenant for life, verifying signatures to consent by person paying in, [2269]
settlement—of none, [1801]
settlement of, but not affecting fund, [1802]
shorthand writer—verifying transcript of notes of, [670], [1464]
signature to, of person before whom sworn, 7 (*s*)
solicitor—striking off roll—on application for, [1994]

AFFIDAVIT—*continued.*
special, 3 (*a*)
special case—leave to set down on application for, [1988]
Stannaries Court—order of—enforcing on application for, [932]
stay of proceedings pending disclosure by solicitor of authority to issue writ—on application for, [451]
stay of proceedings until particulars of plaintiff's firm given—motion or summons for—in support of, [52]
stop order—on application for, [1644]
striking out co-plaintiff from writ issued without authority—on application for, [1959]
subpœna ad testificandum: witness in Scotland or Ireland—on application for—to compel attendance of, in Court, [739]
subpœna duces tecum: witness in Scotland or Ireland—on application for—to compel attendance of, in Court, [757]
substituted service—on application for, [186], [990]
garnishee order *nisi*, [1058]
summons—ordinary, [1086]
writ of summons, [370]
sureties: of:
deposits on sale by Court—to recognisance given as security for, [1303]
guardian of infant: of, [1379]
receiver, of, [1685]
surveyor, by, [1199], [1298]
sworn, before whom may be, 6, 7
Chief Clerk, [9 (1)]
Clerk of Enrolments, [9 (4)]
Commissioner, [9 (6)]
Commissioner of Channel Islands, [9 (7)]
Irish, [9 (9)]
Scotch, [9 (8)]
District Registrar [9 (5)]
Master or Clerk in Filing, &c., Department, [9 (3)]
Taxing Master, [9 (2)]
third party notice—leave to issue and serve, on application for, [148]
title of, 4 (*c*)
Tramways Act, 1870, summons under for investment and payment of dividends—verifying signatures to, [2212]
where provisional order not confirmed, [2214]
of secretary or assistant secretary to Board of Trade, [2215]
transfer of administration proceedings for administration in bankruptcy, on application for, [67]
transfer to County Court for trial where claim under £50—application on, for, [1900]
County Court, to, of action, [1904]
translation of—verification of, 10 (*d*) [14]
trust—summons to administer, in support of [1153]
Trustee Relief Act—for payment in under, [2048]
witness unable to attend trial—affidavit by—on application to read, [698]
to dispense with attendance of, [707]
writ of summons—on application to renew, [348]
substituted service of, for, [370]

AFFIDAVIT OF SERVICE,
admission of documents or facts, of notice for and refusal to admit, [655]

AFFIDAVIT OF SERVICE—*continued.*
charging order *nisi* on judgment debtor, of, [1052]
creditors, notice to prove, of, [1177]
documents, notice to produce, of, [666]
examination of witness: of chief clerk's summons for attendance of witness, [1110]
House of Lords, of order for respondents to lodge cases on appeal to, [1477]
judgment or order, of, [32], [35]
of notice of, [165]
on numerous persons, [166]
post, through, [167]. *See* POST.
motion for judgment, of notice of having set down action for hearing on, [803]
notice, or notice of motion, of [31], [35]
to admit documents or facts and refusal, of, [655]
petition, of, [33], [35]
subpœna and notice, of, [766]
summons, ordinary, of, [34], [34*a*], [35], [1091]; on a substitute, [1092]
originating, [1089]; on a substitute, [1090]
trial—of notice of, [812]
writ of summons, of, [414], [418]
foreign subject out of British dominions, on, of notice in lieu of, [417]
recovery of land, in action for, in case of vacant possession, [415]
substituted or other service, of, where order made for, or for substitution of notice for service, [416]

AFFIRMATION, 310—312
affidavit joined with, 13 (*q*), [25], footnote thereto, 14 (*r*), [26]
arbitration on, [2128]. *See* ARBITRATION.
Common Law Procedure Act, 1854, under: 13 (*o*), [23]
declaration and affirmat to, 13 (*p*), [24]
conscientious objector to an oath: of, [779]; before examiner, [780]; declaration to, [24]
Evidence Further Amendment Act: under, [781]
examiner, before, 290, 310, [770], [772], [774], [776], [778], [780]
ex-Moravian, or ex-Quaker: by, 11 (*k*), [19]; declaration and affirmat to, 12 (*l*), [20]
before the Court, [775]; before an examiner, [776]
filing: notice of, 15 (*u*), [29]
foot-note to, 11 (*h*), [17]
joined with affidavit, [25]
Moravian: by, 11 (*g*), [16]; declaration and affirmat to, 11 (*i*), [18]
before the Court, [773]; before an examiner, [774]
objector to an oath: by, [779]; before examiner, [780]
Quaker: by, 11 (*g*), [16]; declaration and affirmat to, 11 (*i*), [18]
before the Court, [773]; before an examiner, [774]
Separatist: by, 12 (*m*), [21]; declaration and affirmat to, 12 (*n*), [22]
before the Court, [777]; before an examiner, [778]
And *see* AFFIDAVIT.

AGENT, TOWN, change of, notice of, [2008], [2010]; appointment of—motion paper for, [2012]. *And see* SOLICITOR.

ALLEGATIONS—common forms of, in petition to carry on proceedings, [179]

ALLOWANCE FOR MAINTENANCE—infant, of, summons for, [1386]. *See* INFANT.
Pauper Lunatic Acts, under, out of a fund in Court—summons for, [1409]
person of unsound mind not so found, of—summons for, [1407]

ALLOWANCE PENDING LITIGATION :
summons for, [1144]

ALTERATION :
affidavit, in, 3 (*a*)
judgment, of—notice of motion or summons for, [904]; motion paper for, [905]. *And see* AMENDMENT.

AMENDMENT :
Court of Appeal, of notice of appeal to—notice of motion for, [1455]. *See* APPEAL TO THE COURT OF APPEAL.
House of Lords, of petition to, leave for, petition for, [1497]. *See* APPEAL TO HOUSE OF LORDS.
pleadings, of, 196—202. *See* PLEADINGS, amendment of.
special case, of, 855, 856. *See* SPECIAL CASE.
writ of execution : of, 429 ; summons for, [1076]
writ of summons : of, 132—136. *See* WRIT OF SUMMONS, amendment of.

ANCIENT LIGHTS—injunction to restrain interference with—notice of motion for, [1614]

ANNUITIES :
Chief Clerk's certificate as to, [1410 (4)]
legacies and : inquiries as to, 489—491. *See* CHAMBERS, JUDGES', judgments and orders in, proceedings under.
list of, remaining unpaid, and arrears, [1196]
searches for, 496 (*f*)
requisition for search for, in registry of judgments, [1213]. *And see* SEARCHES.

ANSWER TO INTERROGATORIES, 794—797. *See* INTERROGATORIES.

APPEAL—Court of Appeal, to, 621—629. *See* APPEAL TO COURT OF APPEAL.
House of Lords, to, 630—644. *See* APPEAL TO HOUSE OF LORDS.
pauper, as—leave for—motion paper for, 35 (*i*), [61]
stay of execution—does not operate as, 621 (*b*)

APPEAL TO THE COURT OF APPEAL, 621—629 ; summary of material provisions of R. S. C. 1883, as to, 621—623 (*c*)
advance of, 629 ; notice of motion for, [1472]
amendment of notice of—notice of motion for, [1455]
brief on, 628 (*t*) ; contents of, [1470 (1)] ; indorsement on, [1470 (2)]
certificate of judge that case sufficiently argued, [1141]
chambers from, 454 (*e*)
consent orders, as to, 621 (*a*)
consent to appeal being prematurely heard, [1471]
costs, as to, 621 (*a*)
costs of—security for—notice of motion for, 626 (*k*), [1458]
discretion, in matters of, 621 (*a*)
dismissal of : for want of prosecution—notice of motion for, [1459]
evidence on, 627 (*q*) : further, leave for—notice of application for, [1466]
not printed in Court below : leave to print—motion paper for, [1465]
shorthand-writer's notes : leave to use as—motion paper for, [1463]
transcript of—affidavit verifying, [1464]
execution—does not operate as a stay of, 621 (*b*)

APPEAL TO THE COURT OF APPEAL—*continued.*
ex parte application: from refusal of: leave for, after time expired—motion paper for, [1449]
interlocutory order: from—certificate by solicitor on setting down, [1454]
leave for, after time expired—notice of motion for, [1450]
minutes of order on—notice of motion to vary, [1473]
motion on: notice of, [1452]
notice of: amendment of—notice of motion for, [1455]
pauper, as—leave to—motion paper for, 35 (*i*), [61]
person not party to the action: leave to appeal by—motion paper for, [1451]
præcipe on setting down, [1453]
premature hearing of, consent to, [1471]
printing evidence not printed in Court below: leave—motion paper for, [1465]
prosecution: want of—notice of motion to dismiss for, [1459]
refusal of *ex parte* application: from, leave after time expired—motion paper for, [1449]
respondent's notice to vary judgment on, [1461]. *See* varying judgment on, *infra.*
security for costs of, 626; notice of motion for, [1458]
setting down, 625 (*i*); from interlocutory order—solicitor's certificate upon, [1454]
fee upon, 624 (*h*)
præcipe on, [1453]
shorthand notes: leave to use on—motion paper for, [1463]
transcript of—affidavit verifying, [1464]
stay of proceedings—notice of motion for, pending an appeal, [1448]
subpœna ad testificandum on hearing of, [1468]; *præcipe* for, [1467]
third person, by: leave for—motion paper for, [1451]
time, 623 (*e*): after expiration of—leave to appeal—notice of motion for, [1450]
varying judgment on, respondent's notice for, [1461]; affidavit of service of, [1462]
leave for service of—notice of motion for, [1460]
minutes of order on appeal—notice of motion for, [1473]
want of prosecution—dismissal of, for—notice of motion for, [1459]
withdrawal of, 625
motion paper for, by consent, [1456]; not by consent, [1457]
witness on: attendance of—notice for, [1469]

APPEAL TO THE HOUSE OF LORDS, 630—644
amendment of petition and lodging supplemental case: leave for—petition for, [1497]; notice of intention to present, [1485], [1498]
appendix to case on, [1496]
case on, 638 (*w*); formal parts of, [1494]; joint case, [1495]. *And see* lodging cases on, *infra.*
appendix to case on: formal parts of, [1496]
sureties: of sufficiency of, [1478]; indorsed notice on copy served, [1479]; certificate of service of, [1480]
costs of, security for, 632 (*i*). *See* RECOGNIZANCE.
cross-petition of, 635 (*n*), [1487]
extension of time for: petition for, [1484]; after time extended, [1484]
notice of intention to present, [1485]; consent to, [1486]
death of appellant, leave to revive on—petition for, [1499]; notice of, [1500]
intention to—notice of, [1475]; service of—certificate of, [1476]
lodging cases on: extension of time for—appellant's petition for, [1488]; after dismissal, [1490]; notice of intention to present, [1491]
respondent's petition for, [1492]; notice of intention to present, [1493]
order on respondents for: service of—affidavit of, [1477]

References to the Forms are printed thus [479].

APPEAL TO THE HOUSE OF LORDS—*continued.*
notice to respondents of intention to appeal, [1475]; certificate of service of, [1476]
order of the House of Lords, making an order of the High Court of Justice—motion paper for, [1505]
pauper: petition by appellant for leave to appeal as, [1481]; affidavit of poverty, [1482]; certificate of poverty, [1483]
petition of, [1474], 630 (*b*)
recognizance by sureties or substitute, on: sufficiency of—solicitor's certificate of, [1478]
indorsement on copy served on respondent's agents, [1479]
service of—certificate of, [1480]
respondent—notice to, of intention to appeal, [1475]
certificate of service, [1476]
revivor of, on death of appellant—petition for, [1499]
notice of intention to present, [1500]
security for costs of, 632 (*i*)
supplemental case on, [1501]
lodging, leave for—petition for, [1497]; notice of intention to present, [1485], [1498]; sureties on—certificate of sufficiency of, [1478]; indorsement on copy served, [1479]; certificate of service, [1480]
time for lodging cases: extension of—petition for by appellant, [1488]; notice of intention to present the petition, [1489]; after dismissal, [1490]; notice of intention, [1491]
extension of—petition by respondent, [1492]; notice of intention, [1493]
time to present cross-appeal—petition for extension of, [1484]; notice of intention to present, [1485]
withdrawal of; petition for, on payment of costs, [1502]
notice of, [1503]
without costs by consent, [1504]

APPEARANCE, 154—178; summary of material provisions of R. S. C. 1883, as to, 154—155 (*a*)
authority by defendant to solicitor to enter, [384]
carrying on proceedings: to order for—memorandum of, [187], [404]
counterclaim, to, [406]. *See* COUNTERCLAIM AND SET-OFF.
default of, 164—178; summary of material provisions of R. S. C. 1883, as to, 164—166 (*a*). *And see* JUDGMENT IN DEFAULT.
affidavit of service, 166—171, [414]; in action for recovery of land in case of vacant possession, [415]
infant, on behalf of, 171. *See* GUARDIAN AD LITEM.
judgment, on, 171—178, &c. *See* JUDGMENT IN DEFAULT.
trial: at, 335 (*h*), 354, 355
writ of summons, service of—affidavits of, 166—171. *See* SERVICE OF WRIT OF SUMMONS.
entry of, 154—164
notice of, [386], [387]
guardian, by—affidavit in support of, [388], [92]
judgment: after notice of—memorandum of, [171], [405]
leave for: after judgment—petition of course for, [389]; notice of motion or summons, [390]
limiting defence to part of claim—memorandum of, [393]
notice of, [395]
particulars as to—notice of motion or summons for, [397]
time for, extension of—summons for, [396]

APPEARANCE—*continued.*
memorandum of, [385]; under order, [391]; to order for carrying on proceedings, [404]
notice of, by solicitor, [386]; in person, [387]; after order, [392]
order for carrying on proceedings: to—memorandum of, [404]
recovery of land, in action for, 158. *See* LAND.
setting aside—notice of motion or summons for, [412]; affidavit in support, [413]
as unauthorized—notice of motion or summons for, [410]; affidavit in support, [411]
successors: by—memorandum of, [187]
third person not made defendant: by, 70, 71, 161
entry of: memorandum of, [150], [402]
leave for, after time expired—notice of motion or summons for, [151], [403]
notice of, [152]
undertaking to appear to writ of summons, [366]
withdrawal of—request of solicitor for, [407]; consent of plaintiff, [409]

APPENDIX TO CASE, 640 (*y*), [1496]. *See* APPEAL TO THE HOUSE OF LORDS.

APPORTIONMENT OF DEFICIENT FUND, 533—535.
creditors, among: claim to share in, after certificate given—summons for, [1189]
fund in Court: of—affidavit verifying, [1270]; chief clerk's certificate of, [1272]; statement of, [1271]

APPREHENSION OF DEFENDANT. *See* ATTACHMENT, WRIT OF, 393—404; IMPRISONMENT, 401—404; and ARREST OF ABSCONDING DEBTOR, 713—716.

APPRENTICESHIP, 588—590. *See* INFANT.

APPROVAL OF MARRIAGE OF WARD—petition for, [1396]. *See* INFANT; marriage of.

ARBITRATION, 925—929; summary of material provisions of R. S. C. 1883, as to, 925—926 (*h*)
affidavit of publication of award, [2131]
affirmations, oaths, and declarations of witnesses on, [2128]
agreement for: making an order of Court of—notice of motion for, [2121]
appointment of arbitrator, under Common Law Procedure Act, 1854, summons for, [2125]
revocation of—notice of motion or summons for, [2124]
third arbitrator, of, summons for, [2125]
umpire, of, summons for, [2125]
award, 929—932. *See* AWARD.
documents—production of, at—motion paper for, [2126]; petition of course, [2127]
judgment under—setting aside—notice of motion for, [2132]
oaths, affirmations, and declarations of witnesses on, [2128]
order of Court: making agreement for, an—notice of motion for, [2121]
production of documents at—motion paper for, [2126]; petition of course, [2127]
reference of action to two arbitrators or their umpire, notice of motion or summons for, [2123]
remittal of matters to—notice of motion for, [2133], [2134]
setting aside award and judgment under—notice of motion for, [2132]
signatures to the submission, affidavit verifying, [2122]

ARBITRATION—*continued.*
time for award under : extension of—summons for, 929 (*r*), [2129]
umpire, reference to—notice of motion or summons for, [2123]
witnesses on : attendance of, order for—motion paper for, 928 (*r*), [2126] ; petition of course, [2127]
And *see* AWARD—REFEREE.

ARCHBISHOP : writ of *fieri facias de bonis ecclesiasticis* directed to, [964] ; writ of *sequestrari facias de bonis ecclesiasticis*, [968]

ARISING PENDING THE ACTION :
pleading matters, 192—195. *See* PLEADINGS, further.

ARRANGEMENT, DEEDS OF, WITH CREDITORS—search for, 500

ARREARS OF RENT. *See* RENT.

ARREST OF ABSCONDING DEBTORS, 713—716 ; summary of material provisions of R. S. C. 1883, as to, 713 (*k*)
Debtors' Act, 1869, s. 6, under, bond by defendant, [1668] ; notice of names of sureties, [1669]
objection to—notice of, [1670]
suing on, leave for—notice of motion or summons for, [1673]
discharge upon : order for—notice of motion for, [1674]
motion-paper or summons for, [1665] ; affidavit in support, [1666]
order for, delivered to sheriff—indorsement on, [3], [4], [1667]
security on—certificate of, [1672] ; sufficiency of : determination of—summons for, [1671]
sureties on : names of—notice of, [1669]
objection to—notice of, [1670]
And *see* IMPRISONMENT.

ARTISANS' AND LABOURERS' DWELLINGS IMPROVEMENT ACT :
taking lands under, 980

ASCERTAINMENT OF FOREIGN LAW, 813—815. *See* FOREIGN LAW, ASCERTAINMENT OF.

ASSESSMENT OF DAMAGES :
writ of inquiry for, 350 (*a*), [381]

ASSESSORS :
trial with, 327 (*n*) ; notice of motion or summons for, [813]

ASSETS :
admission of, [1247]

ASSIGNMENT :
allegation of—of share or interest, common form of, in petition to carry on proceedings, [179]
certificate of solicitor as to, of cause or matter, [341]
interest in fund in Court, of—stop order upon—summons for, [1642], [1643]

ASSOCIATE:
certificate by, of result of trial, [855]

ATTACHMENT OF DEBTS, 420—423; summary of material provisions of R. S. C. 1883, as to, 420—421 (*a*)
examination of judgment debtor with a view to—notice to attend for, [1054]; notice of motion or summons for, [1053]
garnishee order *nisi*—motion paper or summons for, [1055]; affidavit in support, [1056]
substituted service of, 423 (*n*); summons for, [1057]; affidavit in support, [990], [1058]

ATTACHMENT, WRIT OF, 393—404
address, indorsement of, 397. *See* indorsement, *infra*.
arrest under, discharge from, 402—404. *See* DISCHARGE.
default in leaving account at Chambers, on, 508, 509
form of, [996]
habeas corpus—application for, by contemnor, 399. *See* HABEAS CORPUS, WRIT OF.
indorsement on, of name and address of party issuing where issued by a solicitor, [998]; the like where issued by the party in person, [999]; of address of party against whom issued, [1000]; of notice to sheriff, [997]
irregularity—discharge of order for—notice of motion for, [1022]
issued, when, 395 (*g*)
leave for, 395 (*h*); notice of motion or summons for, [993]; affidavit in support, [994]
memorandum to be indorsed on copy judgment or order for service, [988]
notice to sheriff indorsed on, [997]
order for attachment—discharging for irregularity—notice of motion for, [1022]
præcipe for, [995]
return of, 397 (*r*)
attached and in prison, [1002]
capi corpus, [1003]; proceedings on, 398—399. *See* TIPSTAFF.
non est inventus, [1004]; proceedings on, 399. *See* SERJEANT-AT-ARMS.
notice to sheriff for, [1001]
service of the judgment, 393—395; when not required, 393 (*a*)
time for obeying judgment when no time limited thereby—notice of motion or summons to fix, [986]; the like, to enlarge the time fixed, [987]

ATTENDANCE OF PARTIES on proceedings under judgments or orders, 465 (*l*), 466. *See* CHAMBERS, JUDGES'.

ATTORNEY—payment to, request for, by payee, [1770]. *And see* PAYMENT OUT OF COURT, dividends.
power of, to receive cheque, request for, [1807]
dividends—request for, [1769]
money due to mortgagee under certificate, [1537]

ATTORNEY-GENERAL:
description of, in writ of summons, [204], [204a], [204b], [204c]
petition of right—answer and plea of, to formal parts of, 685 (*h*), [1588]
proceedings in the name of, at the instance of relators, 28—30
regulations as to, 28 (*b*), [46]

References to the Forms are printed thus [479].

ATTORNEY-GENERAL OF PRINCE OF WALES:
description of: in writ of summons, [204 e].

ATTORNMENT:
receiver, to, [1693—1697]. *See* RECEIVER.
sequestrators, to, [1037—1040]. *See* SEQUESTRATION.

AUCTIONEER, 550—561. *See* SALE UNDER JUDGMENT OR ORDER.

AWARD, 929—932:
action for money payable under—writ of summons in, [251]
affidavit of publication of, [2131]
judgment in pursuance of: setting aside—notice of motion or summons for, [2132]
omissions in: remittal to supply—notice of motion for, [2133], [2134]
order of Court: making—notice of motion for, [2130]
publication of—affidavit of, [2131]
remittal of: to arbitrator—notice of motion for, [2133], [2134]
setting aside—notice of motion for, [2132]
special case: stated as, 931 (*e*)
setting down—motion paper for, [2135]
memorandum on, [2136]
notice of, setting down, [2137]
time for making: extension of summons for, [2129]
And *see* ARBITRATION; REFEREE.

BANK OF ENGLAND, 744—745
application to lodge money at: to a suspense account in an urgent case, [1725]
certificate of receipt by, [1728]
certificate of stock—request for, by solicitor, [1134]
description of, in writ of summons, [204 j]
directions for lodgment of cash at—request for, [1726]
information from—request for, by Chief Clerk, [1133]
Paymaster's direction for lodgment, [1727]. And *see* PAYMENT INTO COURT.
transfer of cash to account at—requisition for, from official person, [1803]

BANKING COMPANY:
execution against, 363—365. *See* EXECUTION.
public officer of: description of, in writ of summons, [204 k]
registered public officer of: established by letters patent, description of, in writ of summons, [204 l]

BANKRUPTCY:
administration in, of deceased debtor's estate—transfer of proceedings for—notice of motion or summons for, [66]; affidavit in support, [67]
allegations of—common forms of in petition to carry on proceedings, [179]
obligor, of: new security to be given—summons for, [1951]
official receiver, the, description of, in writ of summons, [204 s]
search for adjudication in—affidavit of, 499, [1207]
surety, of: to receiver—new security on—summons for, [1719]
trustee in, description of, in writ of summons, [204 r]

BANKRUPTS, 36—38—Summary of material provisions of R. S. C., 1883, as to, 36 (*a*), i.: material provisions of Bankruptcy Act, 1883, as to, 36—37 (*a*), ii.
stay of proceedings on defendant's bankruptcy—notice of motion or summons, 37 (*b*), [65]
transfer of proceedings for administration of deceased debtor's estate, notice of motion or summons by creditor for, 38 (*c*), [66]; affidavit in support, [67]

BIDDINGS AT SALE, 550 *et seq.* *See* SALE UNDER JUDGMENT OR ORDER.

BILLS FOR ACTS OF PARLIAMENT—settlement of, 578—579. *See* CHAMBERS, JUDGES'.

BIRTH:
certificate verifying extract from parish register, as to, [657]

BISHOP:
writ directed to, 383 (*o*), 384. *See* *FIERI FACIAS DE BONIS ECCLESIASTICIS*, WRIT OF, and 385—386; *SEQUESTRARI FACIAS DE BONIS ECCLESIASTICIS*, WRIT OF. [273]

BOND:
arrest under Debtor's Act, 1869, s. 10: on, [1668]
auctioneer and sureties: by, [1302]
costs, for, [1945]. *See* COSTS, SECURITY FOR, 837—844.
guardian and sureties: by, [1377]
receiver: by, [1683], [1690]; and a society or company as his sureties, [1684]
sheriff: to, in pursuance of writ of *ne exeat regno*, [1663]

BOUNDARIES:
action to settle, proceedings in, 651 (*k*)
indorsement on writ of summons, [282*a*], [1516]

BOX IN COURT:
delivery out of—summons for, [1794]
deposit in Court—notice of motion or summons for, 749 (*o*), [1738]

BRIEF:
appeal, on, 628 (*t*)
evidence by affidavit: in case of, [833]
evidence, oral, in case of, [832]
further consideration, on, 609 (*e*), [1431]
motion for judgment, on, [806]
petition, on—indorsement on, [1609]
production of, to draw up judgment—notice of motion for, [900]
special case, on—indorsement on, [1991]
special motion, on—indorsement on, [1595]
trial, on, [832], [833]; with a jury, [844]

References to the Forms are printed thus [479].

BRITISH COURT ABROAD:
opinion of, taking, 813—815. *See* FOREIGN LAW, ASCERTAINMENT OF.

BUILDING SOCIETY:
not registered, description of, in writ of summons, [204 aa]
registered, [204 z]

BURIAL ACTS, 881—882

BURIAL BOARD:
description of, in writ of summons, [204 x]

BUSINESS:
carrying on, by receiver or trustee—leave for—summons for, [1251], [1704]

CAPITAL:
reduction of, 959—971. *See* COMPANY.

CARRYING ON PROCEEDINGS, 84—92:
appearance to order for—memorandum of, [187]
company: by new officer of—petition of course for, [182]
compelling plaintiff—summons by representatives of deceased defendant, [190]
compelling representatives of deceased plaintiff—summons for, [189]
infant born after judgment, against—petition of course for, [180]
infant coming of age, by, 44, 49. *See* INFANT.
new next friend, authority by, for, 39, [69]. *See* NEXT FRIEND.
order for, discharging or varying: notice of motion for, [188]
petition of course for, [176], [178]; motion paper, [177]
allegations—common forms of, in, [179]
service of: out of jurisdiction—summons for, [183]
substituted—motion paper for, [184]; summons, [185]; affidavit in support, [186]
public officer, new—leave for—petition for, [182]
successors: by and against, 84—92. *See* SUCCESSORS.

CARRYING OVER FUND IN COURT, 757—760. *See* FUND IN COURT, CARRYING OVER.

CAUSES OF ACTION:
exclusion of certain, [481]
joinder of, 129. *See* JOINDER OF CAUSES OF ACTION.
separate trials of—notice of motion or summons for, [815]

CEPI CORPUS, RETURN OF, 398, 399

CERTIFICATE:
appeal to House of Lords, of service of notice of, on respondents, [1476]
associate, of, of result of trial, [855]; fee on, 339 (*l*)
Bank of England, by, as to stock—request for, [1134]
Charitable Trusts Act, under, 879—884. *See* CHARITY.
Chief Clerk, of, 600—606. *See* CERTIFICATE, CHIEF CLERK'S.
commissioners to examine witnesses abroad, of, [729]. *See* COMMISSION TO EXAMINE WITNESSES ABROAD.

CERTIFICATE—*continued.*
counsel, by, charity lands, of propriety of lease, sale, &c., of, [2034]
that motion is fit to be heard as "short," [804]
pauper, on application to sue as, [58]
Debtor's Act, 1869, under, that security has been given, [1672]
examination of married woman, of, [1798]. *See* MARRIED WOMAN.
examiner, by, [764], [765]. *See* EXAMINER.
judge's, as to purport of judgment, [1589]. *See* RIGHT, PETITION OF.
judge's, that case sufficiently argued in Chambers, [1141]
Judgments Extension Act, under, 369. *See* JUDGMENTS EXTENSION ACT.
life of payee, of, [1771]; the like where he is abroad, [1772]
Paymaster, by, 740 (*e*)—742. *See* CERTIFICATE, PAYMASTER'S.
poverty, of, on appeal to the House of Lords, [1483]
Romilly's Act, under, that petition is proper to be sanctioned, [2035]. *See* CHARITY.
solicitor, by, of the amount of residue of a fund to be dealt with by the Paymaster, [1804]. *See* PAYMENT OUT OF COURT.
taxing master, by, of name of taxing master in rotation, [1437]. *See* TAXATION.

CERTIFICATE, CHIEF CLERK'S, 600—606; Summary of material provisions of R. S. C., 1883, as to, 600 (*a*)
accounts and inquiries under judgment for general administration, of, [1410]
reference to, [1410 (1)]
accounts, of having been left in Chambers, [1227]
administration action: in, [1410]
advertisements: statement as to, in, [1410 (2)]
alterations in, how made, 605 (*h*)
annuities: of, [1410 (4)]
arrears, of, [1410 (4)]
apportionment, of, of deficient fund, [1272]
bill for Act of Parliament—approval of, [1365]
classification of parties in, [1410]
copy of: direction to file, when original lost, [1420]
debts, as to, [1410 (2)]
interest thereon, [1410 (2)]
subsequent interest—computation of, [1269]
none, of, [1410 (2)]
deed, of approval and execution of, [1234]
of execution of [1217]
draft of: settlement of—summons for, [1411]
appointment for—notice of, [1412]
evidence produced: statement of, in, 604, [1410]
fee on, 604 (*e*)
foreclosure action: account, of result of, [1533]
amount due to mortgagee not in possession, of, [1530]
funeral expenses: of, [1410 (3)]
incumbrancers on real estate: as to, [1410 (7)]
inquiries and accounts under judgment for general administration, of, [1410]
lease, of settlement of, [1264]
legacies: as to, [1410 (4)]
interest thereon, [1410 (4)]
mortgagee's account: where mortgagee not in possession, of debt on, [1530]
where mortgagee in possession, of receipts and expenditure, [1533]. *See* FORECLOSURE ACTION.

CERTIFICATE, CHIEF CLERK'S—*continued.*
notice of judgment: service of—statement of, in, [1410]
objections to—statement of, [1413]
appointment to consider—notice of, [1412], [1414]
outstanding estate: as to, [1410 (5)]
parties attending in Chambers—statement of, in, [1410]
at their own expense, [1410]
partition in Chambers, of result of, [1508]
advertisement: and of parties interested: of result of, [1512]
inquiry as to persons interested: of result of, [1509]. *See* PARTITION ACTION.
partnership accounts: of result of, [1570]
personal estate: as to account of, [1410 (1)]
none received, [1410 (1)]
real estate: as to, [1410 (8)]
receiver, of security having been given by, [1688]
reduction of capital, of settlement of list of creditors on petition for, [2201]
reference to account in, [1410 (1)]
rents and profits: of account of, [1410 (8)]
none, [1410 (8)]
sale: of result of, [1310], [1318]. *See* SALE UNDER JUDGMENT OR ORDER.
schedules to, 604, 605
service of notice of the judgment dispensed with, of, 601 (*e*), [1410]
service of notice of judgment, of, [1410]
settlement and execution of deed and of result of inquiry as to title, [1215]
settlement of draft of—summons for, [1411]
appointment for—notice of, [1412]
specific performance, in action for, 653. *See* SPECIFIC PERFORMANCE, ACTION FOR.
amount due to vendor and settlement of draft conveyance, of, [1523].
title, of result of inquiry as to, [1522]
title, of result of inquiry as to, and of settlement and execution of deed, [1215]. *See* SALE UNDER JUDGMENT OR ORDER.
transcript of account: reference to, in, [1410 (1)]
varying—summons for, 605, [1415]
adjournment into Court, note of, [1416]
notice of motion for, [1419]
setting down to come on upon further consideration—notice of, [1417]
with adjourned petition, [1418]

CERTIFICATE, PAYMASTER'S:
account, transcript of—request for, [1724]
dealing with fund in Court: of—request for, [1722
und in Court: of—request for, [1723]
transcript of account, request for, [1724]
transfer out of Court: of—request for, [1722]

CERTIFICATE THAT CAUSE COMMENCED BEFORE MICHAELMAS, 1852, 2 (*e*), [2]

CERTIORARI, WRIT OF, 827—829
County Court, action in, removal of from—notice of motion or summons for, [1907]; affidavit in support, [1908]
form of writ, [1910]

CERTIORARI, WRIT OF—*continued.*
indorsement on writ, [3], [4], [1911]
notice of having issued, [1912]
præcipe for writ, [1909]
return to writ, [1913]
judgment of: removal of, by, to issue execution thereon, [1915]; affidavit in support, [1916]
form of writ, [1918]
indorsement on, [3], [4], [1919]
præcipe for writ, [1909], [1917]
return to writ, [1920]
Mayor's Court of the City of London, action or suit in, notice of motion or summons for removal of, 831 (*w*), [1922]
form of writ, [1924]
indorsement on writ, [1925]
præcipe for writ, [1923]
return to writ [1926]. And *see* MAYOR'S COURT, COUNTY COURT, AND REMOVAL OF CAUSE.
other Inferior Courts of Record, judgment in, removal of, for execution—notice of motion or summons for, 835 (*j*), [1931]; affidavit in support, [1932];
issuing the writ, forms for, [1933], [1909—1911]
return to writ, [1934]

CESTUI QUE VIE: ACT FOR PRODUCTION OF, 932—934
final order under: on non-production—motion paper for, [2142]; affidavit in support, [2143]
production in Court: motion paper for, under, [2140]; affidavit in support, [2141]
production out of Court: notice of motion for, [2138]; affidavit in support, [2139]

CHAIRMAN OF COMMITTEES:
signature of—affidavit verifying, 900, [2078]. *See* PARLIAMENTARY DEPOSITS.

CHAMBERS, JUDGES', 430—606; summary of material provisions of R. S. C. 1883, as to, 430—431 (*a*)
account at, 506—525. *See* ACCOUNT (CHAMBERS).
adjournment to and from, 579 (*e*); proceedings after—summons for, [1370]
administration by originating summons at, 455—461
advertisements. *See* ADVERTISEMENTS.
affirmations at, 310—312
allowance pending litigation—summons for, [1144]
appeals from Judge at, 454
certificate of Judge that case sufficiently argued in Chambers, 454 (*e*), [1141]
bills for Acts of Parliament—settlement of, 578—579
approval of—certificate of Chief Clerk, [1365]; recital of, [1367]
Judge, by—memorandum of, [1369]
identity of draft bill—memorandum of, [1366]
print of draft bill—affidavit verifying, [1368]
recital of Chief Clerk's certificate in the preamble of the Bill, [1367]
certificate of Chief Clerk of proceedings at, 600—606. *See* CERTIFICATE, CHIEF CLERK'S.
certificate of Judge that case sufficiently argued in Chambers, 454 (*e*), [1141]
conduct of proceedings in, 461—462. *See* CONDUCT OF CAUSE.
counsel: attendance of summons, by—notice of, [1039]; before Judge, [1100]

CHAMBERS, JUDGES'—*continued.*
debts allowed—list of, 488 (*k*), [1193]. *See* JUDGMENTS OR ORDERS, PROCEEDINGS UNDER.
deeds—settlement of, 538, 539. *See* DEEDS.
evidence in, 441—453. *See* EVIDENCE IN CHAMBERS.
examination at, 443—450. *See* EVIDENCE AT CHAMBERS.
further consideration of cause originally heard in, 609—612. *See* FURTHER CONSIDERATION.
Habeas Corpus ad testificandum in, 444—446. *See* EVIDENCE AT CHAMBERS and *HABEAS CORPUS AD TESTIFICANDUM*, WRIT OF.
infants, proceedings as to, in, 580—598
investments in the purchase or mortgage of an estate, 491—506. *See* INVESTMENT IN REAL ESTATE.
judgments and orders—proceedings under, in, 463—579.
account under. *See* ACCOUNT.
advertisements, 468, 475. *See* ADVERTISEMENTS.
annuities and legacies, inquiries as to, 489—491; list of, remaining unpaid, [1196]
appearance of party served with notice of judgment, certificate of entry of, [1161]
apportionment of deficient fund, 533—535. *See* APPORTIONMENT OF DEFICIENT FUND.
attendance of parties, 465, 466; summary of material provisions of R. S. C. 1883, as to, 465 (*l*)
leave to attend—summons by creditor or other person interested for, 465 (*m*), [1162]
claims—admittance as creditor after direction to apportion, but before apportionment—summons for, [1189]
advertisement under 22 & 23 Vict. c. 35, s. 29, [1190]; for claimants (other than creditors), of a deceased person to come in and prove their claims, 468 (*r*), [1165]; for creditors, [1170]
affidavit of investigation of, [1173]; exhibit to, [1174]
allowance of—notice to creditor of, [1178]
costs of unsuccessful claim, summons for payment of, by claimant, [1192]
investigation of—affidavit of, [1173]; exhibit to, [1174]
list of, allowed, [1193]
list of, to be exhibited to the affidavit of investigation, [1174]
non-receipt of—under the advertisement—affidavit of, [1175]
notice of having entered a claim, [1166]
notice to creditor to produce documents in support, [1172]
notice to creditor to prove his claim [1176]; affidavit of service of notice, [1177]
notice of allowance to creditor, [1178]
particulars of, [1171]
pedigree in proof of heirship and kindred, [1167]; affidavit in answer to inquiry as to heirship and kindred, [1168]. And *see* CLAIM.
production of documents in support of—notice to creditors for, [1172]
proof of—notice to creditors, [1176]; affidavit of service of notice, [1177]
annuity—arrears of, due under bond—affidavit to prove, [1182]
bill of exchange, debt due on—affidavit to prove, [1183]
bond—money due on—affidavit to prove, [1181]
cheque—debt due on—affidavit to prove, [1185]

CHAMBERS, JUDGES', judgments and orders—proceedings under, in, claims, proof of—*continued.*
contract—simple—debt due on—affidavit to prove, [1186]
deceased person, debt due to estate of—affidavit by personal representative to prove, [1187]
judgment debt—affidavit to prove, [1179]
mortgage debt—affidavit to prove, [1180]
promissory note, debt due on—affidavit to prove, [1184]
time expired : after, but before certificate—leave for—summons for, [1188]
classification of parties and nomination of solicitors, summons for, 466 (*n*), [1163]
directions as to prosecution of, 464
inquiries, 467—491. *See* INQUIRIES.
interest on debts—subsequent—Chief Clerk's certificate as to, [1269]. And *see* INTEREST.
legacies and annuities, inquiries as to, 489—491, list of, remaining unpaid, [1196]
notice under 22 & 23 Vict. c. 35, s. 29, to creditors, [1190] ; affidavit of the result of the notice, [1191]
parties—attendance of, 465, 466 ; summary of material provisions of R. S. C. 1883, as to, 465 (*l*)
classification of, and nomination of solicitors—summons for, 466 (*n*), [1163]
proceed under—summons to, 463 (*h*), [1159]
prosecution of—directions as to, 464 ; summary of material provisions of R. S. C. 1883, as to, 464 (*i*)
raising money by sale or mortgage, 531—532. *See* RAISING MONEY OR SALE OR MORTGAGE.
sales under, 539—579. *See* SALE UNDER JUDGMENT OR ORDER.
settlement of deeds, 538, 539. *See* DEEDS.
service of notice of judgment—certificate of entry of memorandum having been made, [170]
certificate verifying copy for Chambers of certificate of entry, [1160]
præcipe for, [169]
lunatics, proceedings as to, in, 599—600
oaths, &c., at, 310—312
orders in : discharge of—notice of motion for, [1140]
originating summons, 433 ; administration by, 455—461
raising money by sale or mortgage, 531—532. *See* RAISING MONEY BY SALE BY MORTGAGE.
sales by the Court, 539—579. *See* SALE UNDER JUDGMENT OR ORDER.
scientific person : letter of instructions to, at, [1138]
report of—affidavit verifying, [1139]
settlement—approval of, 597—598. *See* INFANT, MARRIAGE OF.
settlement of deeds, 538, 539. *See* DEEDS.
statement of facts for, formal parts of, [1137]
summons at, ordinary, 431 (*b*) ; summary of material provisions of R. S. C. as to, 430—431 (*a*) ; formal parts of, [1077]. *See* SUMMONS ORDINARY.
originating : summary of material provisions of R. S. C. 1883, as to, 432 (*g*) ; formal parts of, 433 (*h*), [1078]. *See* SUMMONS ORIGINATING.
returnable before another Judge, by his special leave—formal parts of, [1142], [1143]
unsound mind, persons of, proceedings as to, in, 52—60, 599—600

CHAMBERS, JUDGES'—*continued.*
vacation Judges at, 454 (*f*)
summons returnable before another Judge by his special leave—formal parts of, [1142], [1143].
witness at, 443—450. *See* EVIDENCE IN CHAMBERS.

CHANCERY REGISTRARS, PROCEEDINGS IN THE OFFICES OF, 356—358; summary of material provisions of R. S. C. 1883, as to, 356—357 (*b*)

CHANGE:
address, of, notice of, 3, [5]
parties, of, 84—92. *See* PARTIES, CARRYING ON PROCEEDINGS, AND SUCCESSORS.
solicitor, of, 864—866. *See* SOLICITOR.
trial, place of—notice of motion or summons for, [808]. *See* TRIAL.

CHARACTER:
in which the parties sue or are sued, indorsement of, 126—127. *See* INDORSEMENTS ON WRIT OF SUMMONS, CHARACTER.

CHARGING ORDER, 417—420
judgment debtor's stocks: on, 418 (*b*), 420; petition for, 418 (*b*); summons [1050]; affidavit in support, [1051]
service of—affidavit, [32], [1052]
solicitor's costs—for, 860—863. *See* SOLICITOR, LIEN.

CHARITY, 879—884
Burial Acts, 881—882
graveyard—taking charity lands vested in parochial trustees—summons for, [2044]
Charitable Trusts Act, 1853—summary of material provisions of R. S. C. 1883, as to, 879—880 (*n*)
description of official trustee of lands under, in writ of summons, [204 bb (1)]
of official trustees of funds [204 bb (2)]
order or certificate of Charity Commissioners authorising suit—regulations and instructions concerning applications for, [2032]
certificate verifying copy of, for Chambers, [2042]
relief under—summons for, [2041]
scheme—summons to adopt, appoint trustees, vest lands in official trustee of lands, tax and pay costs, and pay residue to official trustees, [2043]
Charitable Uses Acts, 882—884
enrolment—affidavit in support of application for, [2045]
deed, of, relative to a charitable use—summons for, [2046]; affidavit in support, [2047]
Charity Commissioners—order or certificate of—application for, [2033]
Church Building Acts Amendment Act, 881
Grammar School Act, 881
Romilly's, Sir Samuel, Act, 876—878
petition for leave to sell, grant leases, and exchange charity lands, [2034]
Attorney-General—allowance of, by, [2037]
certificate of counsel that petition is proper to be sanctioned, [2035]
costs of—solicitor's certificate as to petitioner's competency to pay, [2036]
proceed—summons to, on, [1159], [2038]
scheme for: formal parts of, [2040]
trustees of: appointment of—forms for, [1273]—[1275], [2039]

CHEQUE :
action on, writ of summons in, special indorsement, [317], [318]
debt on, affidavit of, [1185]
delivery of, to creditors—notice of, [1808]
power of attorney to receive, request for, [1807]

CHIEF CLERK :
affidavits sworn before, 6 (*k*)
affirmations before, 310—312. *See* EVIDENCE IN CHAMBERS, oral.
attendance before, of witnesses, 443—446. *See* EVIDENCE IN CHAMBERS, oral.
certificate by, 600—606. *See* CERTIFICATE, CHIEF CLERK'S.
conveyancing counsel, direction to, memorandum of, [1202], 494—496. *See* CONVEYANCING COUNSEL.
depositions before, formal parts of, [1118] ; on cross-examination, [1119]. And *see* EVIDENCE IN CHAMBERS, oral.
information from Bank of England, request for, [1133]
interrogatories, examination on, before, 447—450. *See* EVIDENCE IN CHAMBERS, interrogatories.
oaths, affirmations, and declarations of witnesses before, 310—312. *See* EVIDENCE IN CHAMBERS, oral.
witnesses—attendance of—summons for, [1109]
And *see* CHAMBERS, EVIDENCE IN CHAMBERS.

CHURCH BUILDING ACTS AMENDMENT ACT, 881

CLAIM, 467—491 ; summary of material provisions of R. S. C. 1883, as to, 467—468 (*q*)
admittance as creditor after direction to apportion, but before apportionment—summons for, [1189]
advertisement for, [1190] ; creditors, [1170] ; non-creditors, [1165]
allowance of—notice of, [1178]
Chambers : in, 467—491. *See* CHAMBERS, JUDGES', judgments, proceedings under, in.
compromise of—leave for—summons for, [1253]
creditor of deceased : by—particulars of, [1171]
entry of—notice of, [1166]
investigation of, 477 ; affidavit of, [1173] ; exhibit to, [1174]
list of, to be exhibited to the affidavit of investigation, [1174] ; allowed, [1193]
non-receipt of : under advertisement—affidavit of, [1175]
particulars of claim, [1171]
pedigree in proof of heirship and kindred, [1167] ; affidavit verifying, [1168]
production of documents in support of—notice to creditor, [1172]
proof of—notice for, [1176] ; affidavit of service of notice, [1177]
annuity—arrears of, due on bond—affidavit to prove, [1182]
bill of exchange, debt due on—affidavit to prove, [1183]
bond, debt due on—affidavit to prove, [1181]
cheque, debt due on—affidavit to prove, [1185]
contract, simple—debt due on—affidavit to prove, [1186]
deceased person—debt due to estate of—affidavit by personal representative to prove, [1187]
judgment debt—affidavit to prove, [1179]
mortgage debt—affidavit to prove, [1180]
promissory note—debt due on—affidavit to prove, [1184]
time expired : after, but before certificate, leave for—summons for, [1188]
And *see* CREDITOR and CHAMBERS, JUDGES', judgments, proceedings under, in.

CLAIM, STATEMENT OF, 203—220; summary of material provisions of R. S. C. 1883, as to, 203 (*a*)
account, in action for, [495]
administration—in action against executors on footing of wilful default, [493]
amendment of, 197, 204, 205. *See* PLEADINGS (AMENDMENT).
bill of lading: in action on—against master for damage to goods, [509]
against shipowners for damage and short delivery, [510]
Campbell's Act, Lord, in action under, [519]
collision of ships, in action for damages for, [520]
conversion of goods, in action for damages for, [516]
copyright, in action for damages for infringement of, [522]
delivery, in action for non-, [506]
delivery of goods inferior to contract, in action for, [507]
detention of ship beyond demurrage days, for, [508]
detinue, in action for, [517]
driving, in action for negligent, [518]
form of, [486]
of a statement of claim, defence and counterclaim and reply, [603]
foreclosure, in action for, or sale, [496]
fraudulent misrepresentation on sale of lease, in action for damages for, [529]
fraudulent prospectus, in action to recover moneys on the ground of, [523]
insurance, in action on marine policy against underwriters, [511]
landlord and tenant, in action against tenant for breach of covenant to repair, [514]
light, in action for obstruction of, [525]
malicious prosecution, in action for damages for, [530]
marriage, in action for breach of promise of, [515]
negligence, in action for, against driver, [518]
railway company, [512]
solicitor, [513]
under Lord Campbell's Act, [519]
nuisance by pollution of water, in action to restrain, [527]
by smells, in action to restrain [526]
particulars of, 201—202. *See* PARTICULARS OF CLAIM.
partition or sale of real estate, in action for, [504]
partnership, in action for dissolution of, [494]
patent, in action for injunction for infringement of, and damages, [521]
policy, marine, in action on, against underwriters, [511]
portions or other charges on land, in action for raising, [498]
prospectus, in action to recover moneys on ground of fraudulent, [528]
railway company, in action by passenger against, for negligence, [512]
recovery of land, in action for, against tenant whose term has expired [531]
by heir-at-law against stranger, [532]
rectification of an instrument, in action for, [502]
redemption, in action for, [497]
sale and distribution of property subject to lien or charge, in action for, [499]
seduction, in action for damages for, [524]
solicitor, in action against, by client for negligence, [513]
special indorsements, constituting. *See* [315]—[327], 121 (*l*)—125.
specific performance, in action for, [503]
time for delivering, 190; extension of—summons for, [487]; after time expired, [487]
trade-mark, in action for injunction for infringement of, and damages, [523]
trust—breach of, in action for, [500]
trust—execution of, in action for, [501]
wardship of infant and care of infant's estate, in action for, [505]
And *see* PLEADINGS.

References to the Forms are printed thus [479].

CLERGYMAN :
writs against, 383—385. *See* FIERI FACIAS, *de bonis ecclesiasticis*, writ of ; and SEQUESTRARI FACIAS, *de bonis ecclesiasticis*, writ of.

CLERICAL ERRORS, 197 (*k*)
judgments, in—rectifying, 358 (*g*)
writ of summons, in, amendment of—motion paper for, [351] ; petition of course, [352]

CLERK OF ENROLMENTS :
affidavit may be sworn before, 6 (*k*)

CLIENT acting in person—notice of intention, [2011]
solicitor, instead of—notice of appointment of, [2007]. And *see* PERSON, PARTY ACTING IN.

COLONIES :
affidavits in, before whom sworn, 6 (*k*)
examination of witnesses in, 293—300. *See* COMMISSION TO EXAMINE WITNESSES ABROAD.

COMMISSION OF PARTITION, 645 (*l*). *See* PARTITION ACTION.

COMMISSION TO EXAMINE WITNESSES ABROAD, 293—300
certificate by commissioners under, [729]
direction of depositions when returned by the commissioners, [725]
examination before : interrogatories for, [726]
notice of time and place and names of witnesses, [727]
form of, [719]
indorsement on, [720]
indorsement of return on, [728]
interrogatories under, [726]
issue of—notice of motion or summons for, [716] ; affidavit in support, [717]
letters of request to examine witnesses—notice of motion or summons for, [729 (a)] ; form of, [729 (b)]
notice of time and place and names of witnesses, [727]
oath under : clerk's, [724] ; commissioner's, [722] ; interpreter's, [723] ; witness's, [721]
præcipe for, [718]
request, letters of, to examine witnesses—notice of motion or summons for, [729 (a)]
form of, [729 (b)]
return to, indorsed on, [728]
translation of, into English—verification of, [732]
translator of depositions—motion paper for appointment of, [730] ; petition of course for the like, [731]
witnesses before : attendance of—notice of time and place for, [727]

COMMISSIONER FOR THE EXAMINATION OF MARRIED WOMEN, 778—780. *See* MARRIED WOMAN.

COMMISSIONER TO ADMINISTER OATHS : taking affidavits before, 6 (*k*)

COMMITTAL TO PRISON :
contempt : for, 402—404. *See* CONTEMPT and ATTACHMENT, WRIT OF.
discharge from custody, 402—404 ; motion paper for, [1018] ; notice of motion, [1020] ; petition of course, [1019]. And *see* DISCHARGE.
judgment or order : for breach of, 401 (*a*)
notice of motion for, [1013] ; affidavit in support, [1014]
privilege—notice of motion for discharge on the ground of, [1017]
sheriff—committal of, for contempt—notice of motion for, [1016]
ward of Court—of husband for marrying—notice of motion for, [1393]
And *see* IMPRISONMENT.

COMMITTEE OF LUNATIC :
allegation of appointment of—common form of, in petition to carry on proceedings, 88, [179] ; of new, 88, [179]
description of, in writ of summons, [204 (dd)]
Settled Estates Act, direction to make application under, where lunatic tenant in tail—summons for, [2230]. And *see* NEXT FRIEND, LUNATIC, 52—54.

COMMON LAW PROCEDURE ACT :
arbitrator—appointment of, under, 928. *See* ARBITRATION.

COMMONS, HOUSE OF, Speaker or Deputy-Speaker of—signature of—affidavit verifying, [2078]

COMPANY, banking—execution against, 363—365. *See* EXECUTION.
carrying on proceedings against new officer of—petition of course for, [182]
discovery by, of documents—affidavit of, [1840]
summons for, [1837]
interrogatories—answer to, [1824] ; summons for leave to deliver to member or officer, [1823]
interrogating ordinary member of company, 792 (*g*) ; several officers, 792 (*g*)
railway company, 918—925. *See* RAILWAY COMPANIES ACT, SCHEME UNDER.
Reduction of capital under Companies Acts, 1867 & 1877, 959—971
"and reduced," addition of, on, 960
dispensing with, between presentation and hearing of petition—motion paper for, [2189]
Chief Clerk's certificate binding—note of, [2202]
creditors : list of, [2194] ; affidavit verifying, [2193]
advertisement of, [2196]
directions as to settling, [2191] ; summons for, [2190]
settlement of : result of—Chief Clerk's certificate of, [2201]
notice by advertisement to, [2196]
notice by post to, [2195]
debts and claims, list of, pursuant to notice by post, [2198] ; by advertisement, [2199]
order for inquiry as to, [2191]
proof of—notice for, [2200]
opposition to : creditors' notice of, [2204]
order confirming minute of, [2205] ; registration of—notice by advertisement of, [2206]
order for list of creditors, [2191]
petition for, [2188]
hearing of—day for, notice of, by advertisement [2203]
opposition to—notice of, by creditors, [2204]

COMPANY—*continued.*
presentation of—notice of, [2192]
result of notices and verifying list of creditors—affidavit of, [2197]
security for costs by, under the Companies Act, 1862—summons for, [1939]
service on, affidavit of, [414]
surety, as, to recognizance by receiver, [1684]
winding-up order, after, transfer of action, motion paper for, [1892]
writ of summons by, against shareholder for allotment money and calls [323]

COMPELLING ATTENDANCE OF WITNESSES, 300—309. *See* WITNESS: SUBPŒNA, WRIT OF, and *HABEAS CORPUS AD TESTIFICANDUM.*

COMPENSATION, 566 (*r*); Defence Acts, under, 948—949. *See* DEFENCE ACTS.
purchaser's summons for, [1333]
vendor's summons for, [1334]. *See* SALE UNDER JUDGMENT OR ORDER.

COMPOSITIONS UNDER BANKRUPTCY ACT, 1883:
search for, affidavit of, 499, [1207]

COMPROMISE OF ACTION: agreement for—stay of proceedings on—notice of motion or summons for, [1971]. *See* ACTION and STAY OF PROCEEDINGS.

CONCURRENT ACTIONS, 817 (*c*), [1879]—[1882]. *See* CONSOLIDATION OF ACTIONS and STAY OF PROCEEDINGS.

CONCURRENT WRITS, 130—131; summary of material provisions of R. S. C. 1883, as to, 130 (*a*). *See* WRIT OF SUMMONS.

CONDITIONAL CONTRACT OF SALE, 576—578, [1360]. *See* SALE UNDER JUDGMENT OR ORDER.

CONDITIONS OF SALE, 543—547. *See* SALE UNDER JUDGMENT OR ORDER.

CONDUCT OF CAUSE, 461, 462:
creditor—summons by, for, [1154]
defendant or person with liberty to attend—summons by, for, [1154]
legatee—summons by, for, [1154]
next of kin—summons by, for, [1154]
plaintiff—summons by, for, where co-plaintiff refuses to proceed, [1155]

CONDUCT OF SALE, 540, 541 (*b*). *See* SALE UNDER JUDGMENT OR ORDER.

CONFESSING DEFENCE ARISING PENDING THE ACTION, 194 (*e*)

CONFIRMATION OF SALES ACT, 956:
disposal of land reserving minerals, or *vice versâ*, of—petition for, under, [2183]

CONSENT:
adjournment of trial, to, [829]
advance of cause, to, [828]
affidavit, to taking evidence by, [680]
award, to extension of time for making, 929 (*v*)
copyhold, to order vesting, by lord or lady of manor, [2071]

CONSENT—*continued.*
countermand of notice of trial, to, [818]
creditors, by, to payment out of Court to solicitor, [1779]
cross petition of appeal to House of Lords—extension of time for—to petition for, [1486]
discontinuance of action by, on special terms—notice of motion or summons for, [640]
disentailing assurance, to, affidavit of search for, 498, [1207]
evidence by affidavit, to taking, 277 (*g*), [680]
examiner, to evidence being taken *vivâ voce* before, [699]
further consideration, to premature hearing on, [1422], [1426]; to summons for, being issued and made returnable prematurely, [1428]
guardian, to act as, [1376]; under Settled Estates Act, [2228]
guardian *ad litem*, of, to act, [93]; new, [96]
incumbrancer, of, to estate being sold free from incumbrance, [1287]
legatees, by, to payment out of Court to solicitor, [1779]
manor, of lord or lady of, to order vesting copyholds, [2071]
next friend, by, [142]
order by, appeal from, as to, 621 (*a*)
petition not otherwise of course, to, 26 (*u*), [42]
premature hearing, to, of action, [827]
further consideration, on, [1422], [1426]
summons for, being issued and made returnable prematurely, to, [1428]
proceedings by. *See* the different proceedings.
purchase money, to dealing with, [1342]
Settled Land Act, under, by person paying in, to payment of dividends upon investment, 1005 (*c*), [2268]
summons returnable prematurely, to, [1428]
trial—adjournment of, to, [829]
withdrawal of cause by, notice of motion or summons for, [640]

CONSOLIDATED FUND (PERMANENT CHARGES REDEMPTION) ACT, 1873, 979
sale of an annuity: confirmation of contract for—summons for, [2220]

CONSOLIDATION OF ACTIONS, 816 (*a*)—817
administration, for: where no judgment—notice of motion or summons for, [1879]
cases for, 816 (*a*)
defendant's notice of motion or summons for, [1877]; against different defendants on one contract, [1878]
And *see* STAY OF PROCEEDINGS and TEST ACTION.

CONSTABLE:
action against—demand of warrant in, [194]

CONSUL:
affidavit may be sworn before, 14 (*s*)
seal of: judicially noticed, *ibid.*

CONTEMPT, 402—404
attachment for, 393—404. *See* ATTACHMENT, WRIT OF.
committal for, 402—404; notice of motion for, [1015]. *See* COMMITTAL TO PRISON and DISCHARGE.

CONTEMPT—*continued.*
imprisonment for: when contemnor brought up by serjeant-at-arms—motion paper for, [1008]
judgment: by disobedience of—notice of motion, [1013]; affidavit in support, [1014]
And *see* IMPRISONMENT.

CONTINGENT RIGHT, in infant or unborn person or class, &c., 891—893. *See* TRUSTEE ACTS.

CONTRACT:
action on, removal to County Court, 824 (*b*), [1899]
conditional—carrying into effect—summons for, [1361]
debt on a simple, affidavit of, [1186]
pleading bare denial of—effect of, 191
rescission of, condition of sale as to, [1293 (1)]
statements of claim—in actions for breach of, 211—214

CONVERSION OF OUTSTANDING ESTATE—summons for leave for, [1250]

CONVEYANCE ON PURCHASE OR SALE UNDER JUDGMENT OR ORDER, 567—570
acknowledgment by purchaser of receipt of, and consent to purchase-money being dealt with, [1342]
affidavit that purchaser has had, [1344]
appointment of person to execute—summons for, by purchaser, [1339]
draft—purchaser's summons to compel return of, [1336]
draft—vendor's summons to compel purchaser to leave, [1335]
engrossment of—purchaser's summons for return of, [1336]
execution of, by a party—order for—purchaser's summons for, [1338]
person to execute—appointment of—summons for, by purchaser, [1339]
receipt of—acknowledgment of, by purchaser and consent to purchase-money being dealt with, [1342]
return of draft or engrossment of—purchaser's summons for, [1336]
settlement of, in Chambers, [1202]—[1206]
Trustee Acts, under, 892, *et seq.* *See* TRUSTEE ACTS.
vesting order—summons by purchaser for, [1341]
And *see* SALE UNDER JUDGMENT OR ORDER—CONVEYANCING COUNSEL.

CONVEYANCING AND LAW OF PROPERTY ACT, 1881, 996—999
acknowledgment of right to production of documents—summons for production under, [2251]
foreclosure action—sale in—summons for, [1541], [2254]
forfeiture—relief from, in action to enforce right of re-entry or forfeiture for breach of covenant in a lease, [2255]
incumbrances—declaration that the land is freed from—summons for, [1351], [2250]
incumbrances—discharge of—summons for, [2249]
married woman—binding interest of, notwithstanding restraint on anticipation—summons for, [2253]
production of documents under an acknowledgment of the right to production—summons for, [2251]
redemption action—sale in—summons for [1541], [2254]
undertaking for safe custody—inquiry as to damages sustained by loss, &c., of documents contained in—summons for, [2252]

References to the Forms are printed thus [479].

CONVEYANCING COUNSEL, 494—496
advice by, on title: Chief Clerk's direction for—memorandum of, [1202]
conveyance or mortgage settled by—certificate verifying copy draft of, [1204]
name of: in rotation—note of, [1203]
title, advice by, on: Chief Clerk's direction for—memorandum of, [1202]

CONVICT'S PROPERTY:
administrator or interim curator of—account by—summons for, [2207]. *See* FELON'S PROPERTY ACT, THE.

COPIES:
affidavit, of—furnishing to opposite party, 4
depositions before examiner, of, 290
documents produced for inspection, of, taking, 800 (*m*)
Railway Companies Act, under—demand of, [2109]

CO-PLAINTIFF:
conduct of cause by active plaintiff where co-plaintiff refuses to proceed—summons for, [1155]
infant, making co-defendant—summons for, [83]
striking out on coming of age—notice of motion for, [87]
refusing to proceed, making defendant—notice of motion or summons for, [141]
striking out name of, motion paper for, [143]; petition of course for, [144]
And *see* PLAINTIFF and PARTIES.

COPYHOLDS:
admission to—leave to take—trustees' summons for, [1257]
Copyhold Acts, 944—946
application under: must be by summons, 945
lodgment of cash under—request for, [2165]
money paid in: investment of, and payment of dividends to tenant for life—summons for, [2166]
enfranchisement of—agreement for—summons by trustee for confirmation of, [1256]

COPYRIGHT:
action for infringement of—proceedings in, 669—670
expunging entry in registry book of Stationers' Company—notice of motion or summons for, [1558]
infringement—notice of motion to restrain, [1560], [1616], [1617]
writ of summons in—indorsement on, [305], [1559]

CORPORATION, 30 (*a*)
affidavit of documents by—summons for, [1837]
aggregate—description of, in writ of summons, [204 (i)]
discovery of documents in possession of, 30 (*a*)
execution against, 363—365
interrogatories to—summons for leave to deliver, [1823]
proceedings by and against, 30 (*a*)
service upon, 30 (*a*), 140 (*a*). And *see* COMPANY.
affidavit of, of writ of summons, 168 (*g*), [414]

COSTS, 613 (*a*), (*b*)—620
admissions needlessly withheld, of, 264
amendment of writ of summons, of claim abandoned by—notice of motion for, [360]
appeal as to, 621 (*a*)
appeal, of, security for, 626 (*k*); notice of motion for, [1458]
apportionment of, 613 (*b*)
bill of, 616 (*f*); headings of, [1434]. And *see* TAXATION.
Chambers, at, taxation—request for, [1244], [1245]
of unsuccessful claim, summons for payment by claimant, [1192]
default in payment of, dismissal of action for—further notice of motion or summons for, [1963]
discontinued action, of—stay of subsequent action till payment—notice of motion or summons for, [636]
discovery, of, security for, in case of interrogatories, 790 (*c*), 791; in case of documents, 801 (*o*); proceedings relating to, [1818]—[1822]
discretion as to, 613 (*b*)
enforcing payment of, 620 (*q*)
fees on taxation of, 617 (*k*)
fi. fa. for, [940], [1446]
præcipe for, [934], [1445]
former action for same matter, non-payment of: stay of proceedings on—notice of motion or summons for, [636]
generally, 613 (*a*)
interest on, 620 (*q*)
interlocutory proceedings, of, 613 (*a*)
interrogatories, of improper, 788
lien for, 860—863. *See* SOLICITOR, lien.
non-payment of. *See* default, *supra*.
præcipe for *fi. fa.* for, [1445]
security for, 837—844. *See* COSTS, SECURITY FOR.
sequestration for—leave to issue—summons for, [1023], [1447]
set-off, of, 613 (*b*)
taxation of, 614—620. *See* TAXATION.
in Chambers—request for, [1244], [1245]; by officer of another Court, [1246]

COSTS, SECURITY FOR, 837—844; summary of material provisions of R. S. C. 1883, as to, 837 (*a*)
amount of, 837 (*b*)
appeal to Court of Appeal, of—notice of motion for, 626 (*k*), [1458]
House of Lords, of, 632 (*i*). *See* APPEAL TO HOUSE OF LORDS, recognizance.
application for, 837 (*b*)
bond for, 840 (*l*), [1945]
fund for, in lieu of—leave to pay into Court—summons for, [1946]
Companies Act, 1862, s. 69, under, 839 (*i*)—summons for, [1939]; affidavit in support, [1940]
County Courts Act, 1867, s. 10, under, 838; summons for, [1901], [1937]; affidavit in support, [1902], [1938]
discharge of order for—summons for, [1955]
discovery, of—proceedings relating to, [1818]–[1822]. *And see* DOCUMENTS, DISCOVERY OF, and INTERROGATORIES.
dismissal of action for want of—summons for, [1948]
fund for, in lieu of bond: payment of, into Court: leave for—summons for, [1946]
payment out of—summons for, [1956]
further or better—summons for, [1949]; affidavit in support, [1950]
increase of—summons for, [1953]; affidavit in support, [1954]

References to the Forms are printed thus [479].

COSTS. SECURITY FOR—*continued.*
jurisdiction, residence out of, when ground for, 837 (*c*)
limited time : within—summons for, [1948]
new, after death or bankruptcy of obligor—summons for, [1951]; affidavit in support, [1952]
parties liable to give, 837 (*b*), (*c*)
payment into Court of—notice of, [1947]
residence out of jurisdiction, where a ground for, 837 (*c*)
summons for, [1935]; affidavit in support, [1936]
surety for—affidavit of, in justification, [1944]
name of—notice of, [1941]
objection to—notice of, [1942]
substitution of another—notice of, [1943]
time for application, 837 (*c*)
time, within limited—summons for, [1948]
tort : in, under County Courts Act, 1867, s. 10—summons for, [1901], [1937], affidavit in support, [1902], [1938]
want of : dismissal of action for—summons for, [1948]

COUNSEL :
attendance of, on summons before Chief Clerk—notice of, [1099]; before Judge, [1100]
brief, 333—335. *See* BRIEF.
certificate by, that cause fit to be heard as "short," [822]
conveyancing, 494—496. *See* CONVEYANCING COUNSEL.
signature by, to pleadings, 190; to special case, whether necessary, 855 (*d*)

COUNTERCLAIM AND SET-OFF, 235—239; summary of material provisions of R. S. C. 1883, as to, 235—236 (*a*)
amendment of—summons for, [590]
disallowance of—summons for, [591]
appearance to. *See* third person, *infra.*
embarrassing matter in, striking out—summons for, [592]
exclusion of, 237 (*j*)
notice of motion or summons for, [588]
form of, [582]; of defence and counterclaim, [583]
damages, for, [595]
money lent, for, [594]
further reply to—summons for leave to deliver, [589]
indorsement on : for service on third person, [585]
particulars of—summons for, [593]
scandalous matter in, striking out—summons for, [592]
striking out, in whole or in part—summons for, [592]
third person, appearance by—memorandum of, [406], [586]; notice of, [587]
title of : where a third person is made a party, 236 (*f*), [584]
unnecessary matter in, striking out—summons for, [592]

COUNTERMAND OF NOTICE OF TRIAL, [820]
consent to, [818]
liberty to give—summons for, [819]. *And see* TRIAL.

COUNTRY SOLICITOR, 865. *See* SOLICITOR.

COUNTY COURT :
certiorari for removal from. *See* judgment, *infra.*
continuing in : although jurisdiction exceeded—summons for, [1914]

COUNTY COURT—*continued.*
judgment after trial in ; form of, [893]
judgment of :
certiorari to remove for execution, [1918]
indorsement on, [3], [4], [1919]
motion-paper or summons for, [1915] ; affidavit in support, [1916]
præcipe for, [1909], [1917]
return to, [1920]
prohibition to—summons for, [1654]
removal of action from, 826—831 ; summons for, [1906]
certiorari : by—notice of motion or summons for, [1907] ; affidavit in support, [1908]
writ of, [1910]
indorsement on, [3], [4], [1911]
notice of, [1912]
præcipe for, [1909]
return to, [1913]
removal of action to, 824—826 ; summons for, [1903] ; affidavit in support, [1904] ;
contract under £50—summons for, [1899] ; affidavit in support, [1900]
tort : of case of—summons for, [1901] ; affidavit in support, [1902]
retransfer to—summons for, [1905]
transfer of action or matter to—summons for, [1903] ; affidavit in support, [1904]
trial in—summons for, [875]
day for—notice of, [876]
result of—certificate by registrar, [877]

COUNTY COURTS ACTS, 1865 & 1867 :
payment to person entitled of a legacy or sum of money paid into Court—summons for, [2152], [2187]

COURT :
carrying over funds in, 757—760. *See* FUND IN COURT.
delivery out of, 760—783. *See* PAYMENT, TRANSFER, AND DELIVERY OUT OF COURT.
investment of fund in, 756, 757. *See* INVESTMENT OF FUND IN COURT and INVESTMENT IN REAL ESTATE.
payment into, 742—760. *See* PAYMENT INTO COURT.
payment out of, 760—783. *See* PAYMENT, TRANSFER, AND DELIVERY OUT OF COURT.
transfer into, 742—760. *See* PAYMENT INTO COURT.
transfer out of, 760—783. *See* PAYMENT, TRANSFER, AND DELIVERY OUT OF COURT.

COURTESY TITLE :
description of, in writ of summons, [204 (g)]

CREDITOR :
administration by originating summons, 459. *See* ADMINISTRATION OF ESTATES AND TRUSTS ON ORIGINATING SUMMONS, 455—461
admission as : after direction to apportion—summons for, [1189]
advertisement for : in administration, [1170], [1190]
allowance of claim by—notice of, [1178]
claim by, 467—491. *See* CLAIM, and CHAMBERS, JUDGES', judgments, proceedings under, in.
list of claims, [1174]; allowed, [1193]

CREDITOR—*continued.*
notice to, under 22 & 23 Vict. c. 35, s. 29 to send in claims—affidavit of result of notice, [1191]
plaintiff suing on behalf of creditors—description of, in writ of summons, [204 (o)]
production of documents by—notice for, [1172]
statutory notice to, [1190]

CREDITORS' DEED :
search for—affidavit of, 500

CROSS-APPEAL TO HOUSE OF LORDS, 635 (*n*), (*p*), 636

CROSS-EXAMINATION, 281 (*q*), 282 :
affidavit of documents, on, not allowed, 803 (*s*)
attendance for, at Chambers—summons for, [1104]
Chief Clerk, before, of a witness or party on his affidavit—formal parts of, [1119]
deponent, of a—summons for attendance for, [1104]
examiner : before—consent to, [693], [699]
particular witness—notice of motion or summons for, [694], [704], [705], [706]
notice for production of witness for, *vivâ voce* in Court, [692]
service of : extension of time for—summons for, [691] ; after time expired, [691]

CROWN DEBTS :
searches for, 496 (*f*)

CUSTODY :
attendance of person in, compelling, 304—306. *See* HABEAS CORPUS AD TESTIFICANDUM.
discharge from, 402—404. *See* DISCHARGE AND IMPRISONMENT.

CUSTODY OF INFANTS' ACT, 978. *See* INFANTS' CUSTODY ACT.

CUSTOMS CONSOLIDATION ACT, 1876, 981

DAMAGES :
assessment of—writ of inquiry as to, 350 (*a*), [881]
judgment for, in default of appearance, 172, 173
of defence, 250, 251. *See* JUDGMENT IN DEFAULT.
undertaking as to, by next friend of infant on application for writ of *ne exeat regno*, [1659]
writs of summons in actions for, 114—120

DEATH :
allegation of—common form of, in petition to carry on proceedings, [179]
appellant to House of Lords, of, revivor on—petition for, [1499] ; notice of, [1500]
certificate verifying extract from parish register as to burial, [657]
And *see* CARRYING ON PROCEEDINGS—SUCCESSORS.

DE BENE ESSE, EXAMINATION OF WITNESSES, 313—315
depositions on—formal parts of, [790]
leave to use, 315; notice of motion for, [791]; affidavit in support, [792]
motion paper for, [784]; notice of motion or summons, [786]; petition of course, [785]; affidavit in support, [787]
notice of intention to examine, [789]
order for—discharge—notice of motion for, [788]

DEBENTURE ACTS, 957—959. *See* MORTGAGE DEBENTURE ACTS.

DEBENTURE HOLDERS:
description of plaintiff suing on behalf of, [2049]

DEBTORS ACT, 1869:
exceptions in, 396 (*l*)
section 6, 713—716. *See* ARREST OF ABSCONDING DEBTORS.

DEBTS:
advertisement as to, [1170], [1190]
affidavit of, on bill of exchange, [1183]
bond: on, [1181]; for annuity, [1182]
cheque: on, [1185]
covenant: on, [1180]
judgment: on, [1179]
mortgage: on, [1180]
promissory note: on, [1184]
representative: by, [1187]
simple contract: on, [1186]
allowance of—notice of, [1178]
allowed—list of, 488 (*k*), [1193]
annuity secured by bond: on—affidavit of, [1182]
attachment of, 420—423. *See* ATTACHMENT OF DEBTS.
bill of exchange: on, [1183]
bond: on—affidavit of, [1181]; for annuity, [1182]
cheque: on a—affidavit of, [1185]
contract: on a simple—affidavit of, [1186]
covenant: on—affidavit of, [1180]
documents proving: production of—notice for, [1172]
interest on: subsequent—Chief Clerk's certificate of, [1269]. And *see* INTEREST.
investigation: as to, 477; affidavit of, [1173]; exhibit to, [1174]
judgment debt—affidavit of, [1179]
leave to prove after time—summons for, [1188]
list of: brought in, [1174]; allowed, [1193]
mortgage: on—affidavit of, [1180]
non-receipt of claims in respect of—affidavit of, [1175]
particulars of, [1171]
promissory note: on—affidavit of, [1184]
proof of: affidavit in, 481—485; notice for, [1176]; by documents, [1172]
representative, personal—affidavit of, by [1187]
And *see* CLAIM, and CHAMBERS, JUDGES', judgments or orders—proceedings under, in, 463—579

DECLARATION:
declarat to statutory, [1744]
Evidence Further Amendment Act, under, [781]

DECLARATION—*continued.*
life of grantor of power of attorney, of, by payee, [1776]
by solicitor on behalf of payee, [1775]
statutory, as to amount of interest or dividends to be paid into Court, [1743]
statutory, as to subsequent interest, [1810]

DECLARATION OF TITLE ACT, 1862, 956

DECREE. *See* JUDGMENT.

DEED: settlement of, 538—539
approval of—Chief Clerk's certificate of, [1284]
conveyance—approval of, [1215]
direction to conveyancing counsel to settle draft, [1279]
engrossment of, examination of,—affidavit verifying, [1205], [1282]
execution of—affidavit verifying, [1216], [1282]
Chief Clerk's certificate of, [1217], [1285]
identity of—memorandum of, [1263], [1283]
lease—settlement of, [1264]
parties to execute and receive the consideration money, Chief Clerk's certificate of, [1215]
proof of, 274, 275. *See* EVIDENCE, DOCUMENTARY; EXHIBIT.
recitals in: of judgment and approval, [1280]
settlement of: by conveyancing counsel—direction for, [1279]
certificate on copy of draft, [1204], [1281]
draft of, recitals in of judgment and certificate of approval, [1280]
proceeding with—summons for, [1278]
where parties differ, 538 (*u*)
title—certificate of good, [1215]
And *see* CONVEYANCE—SALE UNDER JUDGMENT OR ORDER.

DEFAULT:
appearance: of, 164—178. *See* APPEARANCE and JUDGMENT IN DEFAULT.
costs, in payment of, 256, 847 (*f*), [636], [1963]. *See* COSTS.
documents, in discovery or production for inspection of, 812. *See* DOCUMENTS, DISCOVERY, AND INSPECTION OF.
interrogatories, in answering, 796. *See* INTERROGATORIES.
pleading: of, 253; subsequent to defence, 253; dismissal of action for—notice of motion or summons for, [629]
judgment in, 249—254. *See* JUDGMENT IN DEFAULT.
reply: of—dismissal of action for—notice of motion or summons for, [629]
And *see* STAY OF PROCEEDINGS—DISMISSAL OF ACTION.

DEFENCE, 220—234; summary of material provisions of R. S. C. 1883, as to, 220—221 (*a*); forms of, 226—234
accord and satisfaction, [559]
administration actions, in, [549]
amendment of, 196—202. *See* PLEADINGS (AMENDMENT).
authority to solicitor for, 864. *See* SOLICITOR, AUTHORITY.
bankruptcy, [560]
bill of exchange, in action on, [554]
bonds or contracts under seal for payment of liquidated amount in money, in actions on, [556]
breach of promise of marriage, in action for, [512]

DEFENCE—*continued.*
carriers, in action against, [569]
charter-parties, in actions on, [570]
cheque, in action on, [554]
contributory negligence, of, [568]
conversion of chattels, in action for, [574]
copyright, in actions for infringement of, [577]
coverture, of, [561]
debt, in any actions for, [558]
debts, contracts under seal, in actions on, [556]
debts, simple contract, in actions on, [555]
default, judgment in, 249—254. *See* JUDGMENT IN DEFAULT.
demurrer, proceedings in lieu of, 243—245; summary of material provisions of R. S. C. 1883, as to, 243—244 (*a*)
forms of, including objections on point of law, 244, 245
guarantee, in actions on, raising question of consideration, [609]
marine policy, in action on, alleged to be avoided by 19 Geo. II. c. 37, s. 1, [611]
setting down point of law—notice of motion or summons for, [608]
slander, in action for verbal, actionable only by reason of special damage, [610]
staying or dismissing frivolous or vexatious action—notice of motion or summons for, [613]
striking out pleading which discloses no reasonable cause of action or answer, notice of motion or summons for, [612]
denials in, [567]
detention of chattels, in actions for, [574]
foreclosure actions, in, [550]
by alleged second incumbrancer who claims priority, [551]
form of general, [533]; of defence and counterclaim, [583]
of a claim, defence, and counterclaim, and reply, [603]
forms of, [226], [234]
Frauds, Statute of, [566 (*a*)]
further, 192—194
confession of, [465]; judgment for costs thereon, [466]
leave for—summons for, [461], [536]
guarantee for liquidated amount, in action on, [557]
infancy, of, [562]
injuries to person, carriages, goods, or animals by trespass or negligence, in actions for, [575]
insurance, in action for, [571]
light, in actions for obstruction of, [579]
Limitations, Statute of, [566]
marriage, breach of promise of, in action for, [572]
negligence, in actions for, [575]
"not guilty" by statute—pleading other pleas along with, leave for—summons for, [535]
patent, in actions for infringement of, [576]
payment into Court, of, [563]
promissory note, in action on, [554]
recovery of land, in actions for, [581]
redemption actions, in, [552]
release, [564]
rescission before breach, [565]
seduction, in actions for, [580]
specific performance, in actions for, [553]

References to the Forms are printed thus [479].

DEFENCE *-continued.*
time for delivery of—extension of—summons for, [487], [534]
torts, defence to actions for, [573]
trademark, in actions for infringement of, [578]
trespass, in actions for, [575]
withdrawal of, 255, 257. *See* WITHDRAWAL.
And *see* PLEADINGS.

DEFENCE ACTS, 948, 949
compensation under: investment of, and payment of income to tenant for life—summons for, [2168]; affidavit in support, [2169]
real estate—investment in—summons for, [2094], [2170]
transfer and payment of, to absolute owner—petition for, [2171]

DEFENDANT:
adding, striking out, substituting, 65 *et seq.* And *see* PARTIES.
adding necessary parties—notice of motion or summons by defendant for, [145]
appearance by, 154—178. *See* APPEARANCE.
co-defendants—cross-claim—notice of, [157]
notice of claim for contribution or indemnity against co-defendant, [157]
striking out or substituting, 65 *et seq.*
striking out name of, improperly joined—summons for, [145]

DEFICIENT FUND, Apportionment of, 533—535. *See* APPORTIONMENT OF DEFICIENT FUND.

DELIVERY, WRIT OF, 426—428
distress until chattel returned, directing a, [1068]
indorsements, [936], [937], [939]
levy value, to, [1070]
præcipe for, [1067]
sheriff—direction to, [1072]

DEMURRER, 243—245. *See* DEFENCE, demurrer, proceedings in lieu of.

DENIAL, pleadings in, must be specific, 191. *See* PLEADINGS.

DEPENDENCIES, British, affidavit in, 6 (*k*)

DEPOSIT:
box, of, in Court—summons for, [1794]
documents: of, [1857]. *See* DOCUMENTS.
discovery: as security for costs of, proceedings relating to, 801 (*o*), [1818—1822]
fund in Court on: payment out of—summons for, [1780]. *See* PAYMENT, ETC., OUT OF COURT.
parliamentary, 898—911. *See* PARLIAMENTARY DEPOSITS ACT.
placing money in Court upon, 753—757. *See* PAYMENT INTO COURT, deposit.
sale under judgment or order, 550 *et seq.* *See* SALE UNDER JUDGMENT OR ORDER.

DEPOSITIONS: 290—292.
examiner: before, [711]; at different places, [712]; on cross-examination, [713]. *See* EXAMINER.
And *see* EVIDENCE—WITNESS—OATH.

DEPUTY SPEAKER—signature of—affidavit verifying, [2078]

DESCRIPTIONS of official and corporate bodies and persons in the writ of summons, 103—107. *See* WRIT OF SUMMONS.

DETENTION OF PROPERTY, INTERIM, 784

DIRECTIONS, SUMMONS FOR, 184, 185 (*p*), 189. Summary of material provisions of R. S. C. 1883, as to, 184 (*o*)
defendant, by, [447], [460]
plaintiff, by, [447]

DISALLOWING amendment of pleadings, 198, 199. *See* PLEADINGS, AMENDMENT.

DISCHARGE, 402—404
custody: from—motion paper for, [1018]; notice of motion, [1020]; petition of course, [1019]
special contempt, for—notice of motion for, [1031]
privileged persons, of—notice of motion for, [1017]
order: of. *See* the various proceedings.

DISCONTINUANCE, 255—257; summary of material provisions of R. S. C. 1883, as to, 255 (*a*)
consent: by, on terms—notice of motion or summons for, [640]
judgment for costs on, [635]
notice of, [634]; in part [634]
notice of motion or summons for, [637]; in part, [638]
partial: notice of, [634]
petition of course for, [633]
And *see* WITHDRAWAL AND STAY OF PROCEEDINGS.

DISCOVERY, 788—812; summary of material provisions of R. S. C. 1883, as to, 788—790 (*a*), and 797—799 (*a*)
actions for, 675 (*y*)
documents: of, 797—812. *See* DOCUMENTS, DISCOVERY OF.
inspection of documents: by, 797—812. *See* DOCUMENTS, INSPECTION OF.
property: of, and taking samples, &c., 784—787. *See* INSPECTION OF PROPERTY.
interrogatories: by means of, 788—797. *See* INTERROGATORIES.
postponement of: until determination of issues; notice of motion or summons for, [1826]
security for costs of—proceedings relating to, [1818—1822]
when allowed, 799 (*c*), (*d*)

DISCRETION OF JUDGE—appeals from, 621 (*a*)

DISMISSAL OF ACTION: 248 (*c*)
bankruptcy of plaintiff—notice of motion that trustee may proceed with action, or in default for dismissal, [1977]
certificate of entry of appearance by defendant required, to dismiss for want of prosecution, 248 (*c*)
costs: for default in payment of—further notice of motion or summons for, [1963]
costs of former action, for default in payment of—further notice of motion or summons for, [1963]

References to the Forms are printed thus [479].

DISMISSAL OF ACTION—*continued.*
defective, where suit has become, 851—852
infant by—on coming of age motion paper for, [84]; petition of course, [85]. *See* INFANT.
interrogatories, for non-compliance with order to answer—summons for, [1834]. *See* INTERROGATORIES.
next friend of infant, want of, for—notice of motion or summons for, [76]. *See* NEXT FRIEND OF INFANT.
notice of trial: for neglect to give—notice of motion or summons for, [810]
pleading: in default of—notice of motion or summons for, [615]; affidavit in support, [616]. And *see* JUDGMENT IN DEFAULT.
production of documents: in default of—summons for, [1868]. *See* DOCUMENTS, DISCOVERY OF.
prosecution: for want of, 247, 248 (*c*); notice of motion for, [615]; affidavit in support, [616]; by plaintiff's successors, [1975]; against defendant's successors, [1976]
security for costs: for want of—notice of motion for, [1948]
unsound mind, by person falsely alleged to be of—notice of motion by, [114]. *See* NEXT FRIEND OF LUNATIC.
trial: for want of notice of. *See* notice of trial *supra.*
want of prosecution: for. *See* prosecution *supra.*

DISPAUPERING, notice of motion for, [64]

DISPENSING with representative of party—motion paper for [136]; summons for like, [37]

DISTRICT REGISTRY:
accounts and inquiries in, 462 (*e*); summons for, [1156]
continuing action in: notwithstanding appearance in London—notice of motion or summons for, [438], [1896]
removal from or to, 187, 188, 823, 824; summary of material provisions of R. S. C. 1883, as to, 187 (*f*), 823 (*r*)
removal from, to London: defendant's notice for, [454], [1894]; plaintiff's [1897] certificate that defence not delivered and time for delivery not expired, [455], [1895]
title of action commenced in, 1 (*cc*)
writ of summons issuing from. *See* WRIT OF SUMMONS.

DISTRINGAS, WRIT OF. *See* RESTRAINING TRANSFER OF STOCK AND SHARES, 699—702

DISTRINGAS NUPER VICECOMITEM, WRIT OF, 382 (*l*)
form of, [960]
indorsements on, [936], [937], [939]
præcipe for, [382]

DIVIDENDS, 764 (*b*), 766. *See* PAYMENT OUT OF COURT, dividends, and interest.
restraining payment of—notice to company, [1636]. *See* RESTRAINING ORDER.

DOCUMENTS,
admission of—notice for, [651]. *See* ADMISSION.
affidavit of, 801 (*p*). *See* DOCUMENTS, DISCOVERY OF.
exhibited, 14 (*ss*)—15 (*t*), 272—275. *See* EVIDENCE, DOCUMENTARY.
inspection of, 797—812. *See* DOCUMENTS, INSPECTION OF.

DOCUMENTS, DISCOVERY OF, 797—812; summary of material provisions of R. S. C. 1883, as to, 797—799 (*a*)
affidavit admitting the possession of, 801 (*p*), [1840]
cross-examination on, not allowed, 803 (*s*)
denying possession of any, [1841]
further—summons for, as to particular documents, [1843], [1844]
non-compliance with order for; attachment for—proceedings for, [993—1001]. *See* ATTACHMENT, WRIT OF.
dismissal of action for—summons for, [1868]
striking out defence for—summons for, [1869]
sufficiency of: consideration of—summons for, [1842]
summons for, [1837]; of particular documents, [1843], [1844]
time for filing; extension of—summons for, [1838]
arbitration, at, 928 (*s*).
company, affidavit on behalf of, of documents, [1840]
privilege, 802 (*q*)
security for costs of—proceedings relating to, 801 (*o*), [1818—1822]
service of, order for, affidavit of, [32]
sufficiency of affidavit as to—summons to consider, [1842]

DOCUMENTS, INSPECTION OF, 797—812; summary of material provisions of R. S. C. 1883, as to, 797—799 (*a*)
appointment for—notice of, [1850]
arbitration, at, 928; motion paper for, [2126]
deposit in Court for; summons for, [1857]
time for: extension of—summons for, [1858]
deposited in Court: of,
attendance of officer on examination of witnesses or at trial with documents deposited—memorandum bespeaking, [1860]
delivery out of—notice of motion or summons for, [1865]; petition of course for the like by consent, [1866]
receipt on, [1867]
memorandum on, [1859]
memorandum bespeaking attendance, [1864]
production of—motion paper for, [1861]; petition of course, [1862]; affidavit in support, [1863]
fees for, when deposited in Court, 809 (*l*)
notice to produce documents for, [1846]
order for. *See* production *infra*.
place for, 800 (*l*)
postponement of, until issue determined—notice of motion or summons for, [1846]
privileged matter, 802 (*q*): sealing up, leave for—summons for, [1848]; affidavit on, [1849]
production of, when deposited. *See* deposited in Court *supra*.
arbitration at—motion paper for, [2126]
examination of witnesses: at—notice for, [1856]
order for, summons for, [1852]; affidavit in support, [1853]; against several parties, [1854]
non-compliance with: attachment for, proceedings for, [993—1001]. *See* ATTACHMENT, WRIT OF.
dismissal of action for—summons for, [1868]
striking out defence for—summons for, [1869]
service of—affidavit of, [32]
trial, at: notice for, [1856]
refusal of: notice of, [1851]

References to the Forms are printed thus [479].

DOCUMENTS, INSPECTION OF—*continued.*
sealing up irrelevant or privileged matter on—leave for—summons for, [1848]
service of order for—affidavit of, [32]
summons for, [1852] ; affidavit in support, [1853] ; against several parties, [1854]
time for : extension of—summons for, [1847]
transferee of party that had obtained order for—summons for by, [1855]
trial : production of documents at—notice for, [1856]
witness : production of documents at examination of—notice for, [1856]
And *see* SUBPŒNA, 306—309, and WITNESS.

DOWER, action to assign—proceedings in, 651 (*m*)
indorsement of writ of summons in, [282 *a*], [1516]

DRAINAGE AND IMPROVEMENT OF LAND ACTS, 950
improvements—directions that the Inclosure Commissioners may proceed with, notwithstanding dissent—summons for, [2172]

DRAINAGE WORKS—leave to execute—summons for, [1254]

DRAWING UP JUDGMENT, 355—358. *See* JUDGMENT, ENTRY OF.

ECCLESIASTICAL ESTATES, Acts relating to, 946, 947
lease, ecclesiastical—sale of—petition for, [2167]

ELECTION by plaintiff which of two actions he will proceed with, where one action is in a foreign country—notice of motion for, [1978]

ELEGIT, WRIT OF, 386 (*a*)—392
account under, 392 ; debtor's notice of motion or summons for, [985]
Bankruptcy Act, provisions of, as to, 386 (*a*)
cases for, 386 (*a*)
fee on, 387 (*c*)
form of, [972] ; for residue of debt, [975]
indorsements on, [936—939]
inquisition under, [983] : attendance of witnesses on, compelling. *See* subpœna *infra*.
issue of, 386 (*a*) : leave for, when necessary, 361
nihil, return of : to, [984]
præcipe for, [971] ; on issuing for residue of debt, [974]
renewal of, 361
residue of debt : for, [975]—indorsements on, [936—939] ; *præcipe* for, [974]
return to, 390 (*k*) ; notice to sheriff, [981] : where lands have been extended, [982] ; return of *nihil*, [984]
sale of interest in land delivered under ; petition for, [1049]
subpœna under, [979]
indorsement on, [3] or [4]
subpœna ad testificandum—præcipe for, [977]
subpœna duces tecum—præcipe for, [978]
tenant by : liability of, 392 (*p*) ; account by—notice of motion or summons for, [985]
time for issuing, 386 (*a*)

EMBARRASSING MATTER :
in pleadings ; striking out—summons for, [480]

ENDORSEMENT. *See* INDORSEMENT.

ENFORCING JUDGMENTS OR ORDERS, 359—429. *See* EXECUTION.

ENFRANCHISEMENT—to confirm agreement for—summons by executor or trustee, [1256]
receiver, by, [1704], [1256]

ENROLMENTS, DEPARTMENT OF CLERK OF—searches in, 496 (*f*); affidavit of result of, [1207]

ENTRY: action for trial: of, 329—331; summary of material provisions of R. S. C. 1883, as to, 329 (*u*). *See* TRIAL (ENTRY FOR) and ACTION (ENTRY OF).

ERASURES IN AFFIDAVITS, 3 (*a*)

ESTATE, ADMINISTRATION OF. *See* ADMINISTRATION ACTION; ADMINISTRATION OF ESTATES AND TRUSTS ON ORIGINATING SUMMONS; ACCOUNT; AND SALE UNDER JUDGMENT OR ORDER.

EVIDENCE, 260—316
admissions: by, 260—267. *See* ADMISSIONS.
affidavit: by, 276—282. *See* EVIDENCE BY AFFIDAVIT.
another cause: in, notice of intention to use, 269, [659], [660]
appeal, on, to the Court of Appeal, 622, 627 (*q*), 628. *See* APPEAL TO THE COURT OF APPEAL, 620—629
to the House of Lords, 640 (*y*). *See* APPEAL TO THE HOUSE OF LORDS, 630—644
Chambers: at, 441—455. *See* EVIDENCE IN CHAMBERS.
de bene esse, 313—315. *See DE BENE ESSE*, EXAMINATION.
defect in—leave to supply—notice of motion or summons for, [656]
documentary. *See* EVIDENCE, DOCUMENTARY, 268—275.
oral, 283—312. *See* EVIDENCE *VIVÂ VOCE*.
perpetuation of testimony: action for, 675, 676. *See* PERPETUATION OF TESTIMONY, ACTION FOR.
scandalous matter—striking out—notice of motion or summons for, [679]; form of order for, 276 (*e*)
what is, 276 (*c*)
subpœna for, 300—309. *See SUBPŒNA*, WRIT OF.
supplement—leave to—notice of motion or summons for, [656]
vivâ voce, 283—312. *See* EVIDENCE *VIVÂ VOCE*.
witnesses: by, 300—309. *See* WITNESS and EVIDENCE *VIVÂ VOCE*.

EVIDENCE BY AFFIDAVIT, 276—282; summary of material provisions of R. S. C. 1883, as to, 277 (*f*). And *see* AFFIDAVIT.
affidavits, formal parts of, 3—10. *See* AFFIDAVIT.
affirmation, formal parts of, 11—15. *See* AFFIRMATION.
agreement to take: summons to vary or discharge, [695]
another cause, in—notice of intention to use, 269, [659], [660]
chambers: in, 441, 442
affidavit or affirmation, notice of intention to use on a proceeding at, [1102]
cross-examination of a deponent—summons for attendance for, [1104]
evidence taken in another cause—notice of intention to use in Chambers, [1103]
filing an affidavit—notice of, [29], [1101]

EVIDENCE BY AFFIDAVIT—*continued.*
consent to taking, 277, [680]
cross-examination on, 280, 281
defendant's list of affidavits, [686]
filed after time expired: leave to use, 280—summons for, [690]
filed before issue joined—notice of intention to read, [688]; leave to use though no notice given—summons for [689]
filing: extension of time for, 279; summons for, [684]
notice of, [29]
jurats to affidavits, 6—11
leave to prove particular facts by affidavit—summons for, [696]
to read the affidavit of a witness unable to attend the trial—summons for, [697]; affidavit in support, [698]
list of affidavits, defendant's, [686]; plaintiff's, [685]; in reply, [687]
notice of intention to read affidavit or affirmation already filed, [30]
notice of intention to use an affidavit or affirmation on a proceeding at Chambers, [1102]
oaths on swearing affidavits, 6—11
plaintiff's list of affidavits, [685]; in reply, [687]
time—application for consent to enlargement of, for filing affidavits, [631]
consent to enlargement, [632]
enlargement of, for filing affidavits, summons for, [634]
joint consent, [633]
witness unable to attend trial—summons for leave to read affidavit, [697]; affidavit in support, [698]

EVIDENCE IN CHAMBERS, 441—455; summary of material provisions of R. S. C., 1883, as to, 441 (*b*)
affidavit, by, 441, 442; summary of material provisions of R. S. C., 1883, as to, 441 (*b*)
affidavit or affirmation—notice of intention to use in chambers, [1102]
cross-examination of a deponent—summons for attendance for, [1104]
evidence taken in another cause—notice of intention to use, [1103]
filing affidavit—notice of, 29, [1101]. And *see* EVIDENCE BY AFFIDAVIT.
documentary evidence, 450 (*t*)—452, and 268 (*a*)—275
Bank of England—request to, by Chief Clerk, to furnish information, [1133]
request to, by solicitor, to furnish certificate of stock under 39 & 40 Geo. 3, c. 36, [1134]
production of documents—notice for, [1131]
of documents deposited in Court—obtaining, [1132]. And *see* EVIDENCE, DOCUMENTARY, AND FORMS, [657—677].
interrogatories for the examination of a party or witness before a Chief Clerk, 447—450
allowance of—memorandum of, [1122]
notice of, [1123]
answer and examination—formal parts of, [1126]
filing—notice of, [1127]; summons to limit time for, [1124]; to extend time for, [1125]
sufficiency of—notice of appointment to consider, [1130]
attachment for not answering—discharge from custody—motion for, on filing examination, [1128]; petition of course for the like, [1129]
formal parts of, 447 (*n*), (*o*), [1120]
settling—notice of appointment for, [1121]

EVIDENCE IN CHAMBERS—*continued.*
oral evidence, 443—450; summary of material provisions of R. S. C., 1883, as to, 441 (*b*)
cross-examination of a party or witness on his affidavit before a Chief Clerk—formal parts of, [1119]
depositions of parties or witnesses examined before a Chief Clerk—formal parts of, [1118]
examiner—evidence to be taken before—summons for, [701], [1105]
special—appointment of—summons for, [702], [1106]; affidavit in support, [703]
witness—attendance of, before,
compelling, [733—763], [1108]
notice to attend, [703], [1107]. And *see* EXAMINER.
habeas corpus—writ of to compel attendance before Chief Clerk of a person in custody, [1115]; motion paper for, [1111]; petition of course for the like, [1112]; affidavit in support, [1113]; *præcipe* for, [747], [1114]; indorsement on, [3], [4]
oaths, affirmations, and declarations of parties or witnesses before a Chief Clerk, [770], [772], [774], [776], [778], [780], [1117]
witness—attendance of, for examination—summons by Chief Clerk, [1109]; affidavit of service and non-attendance thereunder, [1110]. And *see* SUMMONS, CHIEF CLERK'S.
scientific: instructions for, [1138]; affidavit verifying report, [1139]
subpœna at, 301—309. *See* *SUBPŒNA*, WRIT OF.
time for taking—summons to limit, 451 (*w*), [1135]
extension of—summons for, [1136]

EVIDENCE, DOCUMENTARY, 268—275
another cause: in, notice of intention to use, 269 [659], [660]
Chambers, in, 450—451. *See* EVIDENCE IN CHAMBERS.
execution of deed—affidavit of, [667]
exhibits: proof of, at trial, leave for—motion paper for, [671]; petition of course, [672]
Registrar's indorsement on, [675]
handwriting: affidavit of, [668]
letters of administration with will annexed—notice of intention to use as, [663]
probate: production of, as—notice of, [633]; notice of intention to dispute validity, [664]
production of: notice for, [665]; affidavit of service, [666]
of record—motion paper for, [661]; officer's attendance with—memorandum for, [662]
proof, of: by affidavit, of copy of correspondence and loss of document, [669]
of execution of deed, [667]
of handwriting of documents, [668]
of loss of document, [669]
of transcript of shorthand-writer's notes, [670]
questions for, [674]
trial at, 275. *See* Exhibits.
public documents—parish registry, extract from, certificate verifying, 269, [657], 470 (*x*), 472 (*a*), 474 (*c*)
record: copy of—certificate verifying, [658]
certificate under 14 & 15 Vict. c. 99, s. 14, [653]
production of—motion paper for, [661]; officer's attendance with—memorandum for, [662]
witness—leave to issue *subpœna* for attendance of—motion paper for, 275 (*s*), [676]
direction to issue *subpœna*, [677]
will: of a, use of probate as—notice for, [663]; notice of intention to dispute validity, [664].

EVIDENCE *VIVÂ VOCE*, 283—312; summary of material provisions of R. S. C., 1883, as to, 283—285 (*b*), (*c*)
affirmations on, 310—312. *See* AFFIRMATION.
Chambers, at, 443—450. *See* EVIDENCE AT CHAMBERS.
commission abroad, before, 293—300. *See* COMMISSION TO EXAMINE WITNESSES ABROAD.
compelling attendance for, 300—309. *See SUBPŒNA*, or *HABEAS CORPUS AD TESTIFICANDUM*.
cross-examination. *See* CROSS-EXAMINATION.
examiner: before, 284—292. *See* EXAMINER.
oaths, &c., on, 310—312. *See* OATH.
subpœna for, 300—309. *See SUBPŒNA*, WRIT OF.
And *see* WITNESS.

EXAMINATION:
abroad: commission for, 293—300. *See* COMMISSION TO EXAMINE WITNESSES ABROAD.
attendance for—compelling, 300—309. *See SUBPŒNA*, or *HABEAS CORPUS AD TESTIFICANDUM*.
Chambers: at, 443—450. *See* CHAMBERS, JUDGE'S.
commission: by, 293—300, &c. *See* COMMISSION TO EXAMINE WITNESSES ABROAD.
de bene esse, 313—315. *See DE BENE ESSE* EXAMINATION.
examiner: by an, 284—292. *See* EXAMINER.
letters of request, by, 298—300
married women, of, 777—780, [1796—1800]. *See* MARRIED WOMAN.
And *see* EVIDENCE—WITNESS—INTERROGATORIES.

EXAMINER: 284—292; summary of material provisions of R. S. C., 1883, as to, 284—285 (*c*)
affirmations before, 290, 310, [710], [770], [772], [774], [776], [778], [780]. *See* AFFIRMATIONS.
appointment of—special notice of motion or summons for, [702]; affidavit in support, [703], [707]
attendance of witnesses before: notice for, [708]; compelling, 300—309, [733—768]. *See SUBPŒNA*, WRIT OF—*HABEAS CORPUS AD TESTIFICANDUM*, WRIT OF.
certificate by: of non-attendance of witness, [764], [765]; of refusal of witness to be sworn, [764]; or produce documents, [765]
compelling attendance of witnesses before, 300—309, [733—768]. *See SUBPŒNA*, WRIT OF—*HABEAS CORPUS AD TESTIFICANDUM*, WRIT OF.
consent to evidence being taken before—form of, [699]
on behalf of a person under disability—summons for leave for, [700]
cross-examination before—consent to, [693], [699]
particular witness—notice of motion or summons for, [694], [704], [705], [706]
depositions made before issue joined—notice of intention to read, [714]; leave to use though no notice given—summons for, [715]
depositions taken by, 290—292; formal parts of, [711]; at different places, [712]; on cross-examination, [713]
translation of—motion paper for, [730]; petition of course, [731]
verification of, [732]
evidence before: *vivâ voce*, consent to, [699]; notice of motion or summons for, [701], [704], [705]; the like where evidence to be taken abroad, [706]; affidavit in support, [707]
examination of witness: objection by witness, [793]; objecting witness—notice of motion to again attend the examiner, [794]

References to the Forms are printed thus [479].

EXAMINER—*continued.*
fees to, 286 (*f*), 290 (*r*)
non-attendance of witness before—certificate of, [764], [765]
oaths, affirmations, and declarations before, 310—312, [770], [772], [774], [776], [778], [780]. *See* OATH.
objection by witness, 316. *See* witness *infra.*
special: appointment of—notice of motion or summons for, [702]; affidavit in support, [703]
evidence before—notice of motion or summons for, [704]; when witness abroad, [706]; affidavit in support, [707]
witness—objections by, [793]
objecting witness—notice of motion to again attend the examiner, [794]

EXCLUSION:
of certain causes of action, and to confine action to rest of plaintiff's claim—notice of motion or summons for, [481]

EXECUTION, 359—429; summary of material provisions of R. S. C., 1883, as to, 359—362 (*b*); summary of various modes of enforcing judgments and orders, 359 (*a*); where execution may issue without service after judgment or order, 393 (*a*)
amendment of writ of, 429; summons for, [1076]
attachment: by, 393—404. *See* ATTACHMENT, WRIT OF.
attachment of debts due to judgment debtor, 420—423
See DEBTS, ATTACHMENT OF.
charging order on debtor's interest in stocks: by, 418 (*b*), 420. *See* CHARGING ORDER.
committal: by, 401—404. *See* CONTEMPT and COMMITTAL TO PRISON.
company: against a banking, 363—365; leave for against a member—notice of motion for, [907], [909]; affidavit in support, [908], [910]; the like under 8 & 9 Vict. c. 16, s. 36, notice of motion for, [911]; affidavit in support, [912]
corporation: against a. *See* company *supra.*
delivery: by writ of, 426—428. *See* DELIVERY, WRIT OF.
distringas nuper vicecomitem: by writ of, 382. *See DISTRINGAS NUPER VICECOMITEM*, WRIT OF.
elegit: by writ of, 387—392. *See ELEGIT*, WRIT OF.
equitable, 359 (*a*), 362 (*b*), 386 (*a*), 415 (*e*), 719 (*h*), (*i*), 720 (*j*); appointment of receiver by way of—motion paper for, by judgment creditor, [1678]. And *see* RECEIVER.
fieri facias: by writ of, 372—386. *See FIERI FACIAS*, WRIT OF.
fieri facias de bonis Ecclesiasticis: by writ of, 383—386. *See FIERI FACIAS DE BONIS ECCLESIASTICIS*, WRIT OF.
imprisonment: by, 401—404. *See* IMPRISONMENT and COMMITTAL TO PRISON.
Inferior Court, judgment of, removal of, for—notice of motion or summons for *certiorari* for, [1931]; affidavit in support, [1932]
issue of writ for, [1933]
return to writ, [1934]
Ireland, in. *See* Scotland *infra.*
Irish or Scotch Court, order of—enforcing in England under ss. 122, 123, of the Companies Act, 1862—motion paper for, [933]
leave for: when necessary, 361
motion paper, notice of motion or summons for, [906]; the like against a member of a banking company under 7 Geo. 4, c. 46, s. 13, [907], [909]; affidavits in support, [908], [910]; against a shareholder of a company under 8 & 9 Vict. c. 16—notice of motion for, [911]; affidavit in support, [912]. *See* company *supra.*

EXECUTION—*continued.*
married woman : against, 61, 62
Palatine County of Lancaster, Court of Chancery of, enforcing judgment of, 370 ; motion paper for, [928] ; affidavit in support, [929]
partners : against, 32 (*g*)
person : against, 359 (*a*)
possession : by writ of, 423 (*a*)—426. *See* POSSESSION, WRIT OF.
property : against, 359 (*a*)
receiver, by appointment of, 359 (*a*), 362 (*b*), 386 (*a*), 415 (*e*), 719 (*h*), (*i*), 720 (*j*)—motion paper by judgment creditor for, [1678]
registration of, 366 (*k*), (*l*) ; memorandum for, [1045]
renewal of writs of, 428—429. *See* RENEWAL, Writs of Execution.
sale of lands extended under an *elegit*—petition for, [1049]
satisfaction of : acknowledgment of, [1046] ; entry of : notice of motion or summons for, [1048] ; petition of course, [1047]
Scotch or Irish Court, order of, enforcing in England, under ss. 122, 123 of the Companies Act, 1862—motion paper for, [933]
Scotland or Ireland : in, 369 (*t*) ; certificate for, where judgment is for plaintiff, [925] ; for defendant, [926] ; minute of presentation, [927]
sequestrari facias de bonis Ecclesiasticis : by, 383—386. *See* SEQUESTRARI FACIAS DE BONIS ECCLESIASTICIS, WRIT OF.
sequestration : by writ of, 404—413. *See* SEQUESTRATION, WRIT OF.
service of judgment, when requisite, previous to, 393 (*a*)
shareholder, against—notice of motion for leave to issue, [907], [909]
Stannaries Court, enforcing judgment of, 370, 371. *See* STANNARIES, COURT OF.
stay of—notice of motion or summons for, 365 (*h*), [913]
pending appeal—notice of motion for, [915]
pending hearing of notice of motion or summons to enlarge time for obeying a judgment, [914]
and all other proceedings in the action, [916]
venditioni exponas : by writ of, 381 (*i*). *See* VENDITIONI EXPONAS, WRIT OF.

EXECUTOR :
accounts of : affidavit of joint executors and trustees verifying, 510 (*g*), [1231].
of sole executor or administrator verifying, [1235] ; and non-receipt of further personal estate, [1238]
of sole trustee, verifying, [1236]
supplemental account, verifying, [1234] ; non-receipt of any further personal estate, [1237]. And *see* ACCOUNT.
admission of assets by, [1145]
executor of—affidavit by, as to personalty of original testator, [1239]
management of property by, during pendency of an administration action, 525—531. *See* ADMINISTRATION ACTION.
writ of summons by—indorsement of character in which executor sues, [324]

EXHIBIT, 14 (*ss*), 15 (*t*), 272—275, 471 (*y*)
deed made an—indorsement on, by Registrar, [675]
identity of—memorandum of, 14 (*ss*), [28]
marking by initial letters, 15 (*t*), 471 (*y*)
proof of : by affidavit, [667], [668], [669], [670] ; orally, 275
trial : at, leave for—motion paper for, [671] ; petition of course, [672]
oath or affirmation of witness, 310—312
questions put to such witness, [674]
And *see* EVIDENCE, DOCUMENTARY.

References to the Forms are printed thus **[479]**.

EXPERT :
report of—affidavit verifying, [1139]. *See* SCIENTIFIC PERSON.

EXPUNGING SCANDAL IN AFFIDAVIT, 276 (*c*), (*e*). *See* SCANDAL.

EXTENSION OF TIME. *See* TIME.

FACTS :
concise statement of, for Chambers, formal parts of, [1137]

FEES, COURT. *See* notes to the various proceedings.

FELONS' PROPERTY ACT, 972
account by the administrator, or interim curator, of a convict's property—summons for, [2207]

FIERI FACIAS, WRIT OF, 372—386 :
address of defendant : indorsement of, on, [939]
amount to be levied on—indorsement of, [938]
banking company : against member of, [944]
beneficed clerk : return to, that debtor is, [952]
change of parties : after, [942] ; indorsements on, [936—939]
costs only, for, [940] ; indorsements, [936—939] ; *præcipe* for, [934]
effect of, 372 (*a*)
expenses of, 374
fee on, 373 (*c*)
fieri feci, return of, [948] ; and of *nulla bona* as to part, [950]
form of, 373 (*c*), [935] ; after change of parties, [942] ; indorsements on, [936—939] ; against member of banking company, [944] ; indorsements on, [936—939] ; for residue of debt, [954] ; *præcipe* for, [953] ; indorsements on, [936—939]
indorsement of amount, [938] ; of party issuing, [937] ; of solicitor, [936] ; of address of defendant, [939]
indorsement on warrant, [938]
leave for, when necessary, 361
possession, writ of : combined with, 425, 426. *See* POSSESSION, WRIT OF.
præcipe for, 372 (*a*), [934]
renewal of, 361. *See* RENEWAL, EXECUTION, WRITS OF.
residue of debt : for, [954] ; *præcipe* for, [953]
return of, 378—380 (*z*) ; notice to sheriff for, by solicitor, [947]
beneficed clergyman : that debtor is, [952]
fieri feci : of, [948] ; and *nulla bona* as to part, [950]
goods : that sheriff has taken and cannot sell, [951]
nulla bona : of, [949] ; and *fieri feci* as to part, [950]
warrant on, [946] ; indorsement on, [938]

FIERI FACIAS DE BONIS ECCLESIASTICIS, WRIT OF, 383 (*o*), 384
form of, [963] ; to archbishop, [964]
indorsements on, [936—938]
præcipe for, [962]

FILING :
affidavit or affirmation—notice of, [29]
accounts, verifying, 510, [1229]
affidavits on trial, 277—280. *See* EVIDENCE BY AFFIDAVIT.
special case—notice of, [1982]

FINES AND RECOVERIES ABOLITION ACT, 943
protector of settlement: consent of Court as—petition for, under, [2163]

FIRM, 30—32. *See* PARTNERS.

FOOTNOTE:
affidavit, to an, 5 (*h*), [7]
affidavit, to a joint, 5, [8]
affidavit and affirmation, to a joint, [26]
affirmation, to an, 11 (*h*), [17]
originating summons, to an, 434 (*m*), [1078]
petition, to a special, 26 (*s*), [41]

FORECLOSURE ACTION: proceedings in, 655—664
account: summons for, in, 176, [430]
continuing, where mortgagee has received rents between the certificate and the time appointed for payment: notice of motion or summons, for, [1536]. And *see* mortgagee in possession, *and* mortgagee not in possession, *infra*.
final order in: on default of payment—motion paper for, [1538]; affidavit in support, when mortgagee attends in person, [1539]; when by attorney, [1540]
indorsement of writ of summons in, [208], [1526]
judgment in—notice of motion for, under 7 Geo. 2, c. 20, s. 2, [1527]
debt under, to mortgagee not in possession—affidavit verifying, [1529]; Chief Clerk's certificate as to, [1530]
proceedings on, in—summons for, [1159], [1528]
mortgagee in possession:
account by, [1532]
affidavit verifying principal and interest, repairs and rents—without rests, [1531]
Chief Clerk's certificate of result of, [1533]
continuing, where mortgagee has received rents between the certificate and the time appointed for payment—notice of motion or summons for, [1536]
mortgagee not in possession: amount due—affidavit of, [1529]; Chief Clerk's certificate, [1530]
payment in: extension of time for—notice of motion or summons for, by mortgagor, [1534]
power of attorney by mortgagee to attend and receive money certified to be due, [1537]
sale instead of foreclosure—summons for, 664 (*r*), [1541]
time for payment in, extension of—notice of motion or summons for, by mortgagor, [1534]
new time for payment in—notice of motion or summons by mortgagee to fix, where he failed to attend at the time appointed for payment, [1535]
writ of summons in: indorsement on, [208], [1526]

FOREIGN LANGUAGE:
affidavit in—oath and jurat, form of, [13]
translation into English—verification of, [14]
depositions in, 299—300
translator of: appointment of—motion paper for, [730]; petition of course, [731]
verification of translation, [732]

FOREIGN LAW, ASCERTAINMENT OF, 813—815
case for, [1873]; memorandum identifying, [1874]
draft of—summons to settle, [1872]
settlement of, in chambers—notice of motion for, [1871]
opinion by foreign Court, formal parts of, [1875]
application of—notice of motion or summons for, 815 (*g*), [1876]

FOREIGN MAGISTRATE:
signature of—affidavit verifying, [14]

FOREIGN STATE:
Government of, description of, in writ of summons, [204 h]

FORMER ACTION:
default in payment of costs of: dismissal of present action for—further notice of motion or summons for, [1963]

FOUR-DAY ORDER FOR ACCOUNTS:
direction for, [1218]; summons for, [1219]. *See* ACCOUNT.

FRAUDS, STATUTE OF,
must be expressly pleaded, [191]

FRIENDLY SOCIETY, REGISTERED:
registered, description of, in writ of summons, [204 y]

FUND IN COURT:
apportionment of deficient, 533—535. *See* APPORTIONMENT OF DEFICIENT FUND.

FUND IN COURT, CARRYING OVER, 757—760; summary of material provisions of S. C. Funds Rules, 1884, 757—758 (*i*)
certificate of: by Paymaster, request for, [1758]
deposit: money on—notice of motion or summons for, [1754]
dividends—notice of motion or summons for, [1754]; proportionate parts of, [1755]
interest—notice of motion or summons for, [1754]
request for certificate of, [1758]
securities—notice of motion or summons for, [1754]; of a given value, [1757]
specific amounts—notice of motion or summons for, [1755]; parts of a larger sum, [1756]
specific amounts of, to separate accounts and for payment of dividends to persons named in schedule for lives, [1767]
And *see* PAYMENT INTO COURT, 742—760; PAYMENT OUT OF COURT, 760—783

FUNERAL EXPENSES, 511 (*i*)
amount of—affidavit by executor verifying, [1231 (2)]

FURTHER CONSIDERATION, 607—612; summary of material provisions of R. S. C. 1883, as to, 607 (*a*)
adjournment into Court of—note of, [1429]
setting down in registrar's book—notice of, [1430]
administration action, of, where the estate is insolvent—summons for, [1432]; minutes of proposed order, [1433]

References to the Forms are printed thus [479].

FURTHER CONSIDERATION—*continued.*
brief on, 609 (*e*); contents of, [1431 (1)]; indorsements on, [1431 (2)]
chambers: of matter originating in—summons for, [1427]
minutes of proposed order on, in chambers—of administration action, where estate insolvent, [1433]
notice of setting down for hearing on, [1423]
premature hearing on: consent of parties to, [1426]
premature issue and return of summons for: consent of parties to, [1428]
premature setting down for: consent of all parties to, [1422]
setting down action commenced by writ for—request for, [1421]; notice of, [1423]
"short:" certificate of counsel for being heard as, [1424]
marking as—notice of, [1425]

GARNISHEE ORDER, 420—423. *See* DEBTS, ATTACHMENT OF.

GOVERNMENT OF FOREIGN STATE:
description of, in writ of summons, [204 h]

GRAMMAR SCHOOL ACT, 881

GUARDIAN, 580—586
account of, [1380]; affidavit verifying, [1380]
ad litem, 46—60. *See* GUARDIAN *AD LITEM*.
appointment of: to estate—summons for, [1374]; affidavit in support, [1375]
to person—summons for, [1372]; where action is pending, [1371]; to person and estate—summons for, [1374]; affidavit in support, [1375]
quasi guardian to person, the father being still alive—summons for, [1373]
vacancy, where a, summons for, [1381]; affidavit in support, [1382]
consent to act as, [1376]
estate: of, appointment of—summons for, [1374]
Lands Clauses Act: under—special guardian to convey, appoint trustees, &c., summons for, [2097]
new: appointment of—summons for, [1381]; affidavit in support, [1382]
recognizance by: after appointment, [1377]; before, [1378]
removal of—summons for, [1381]; affidavit in support, [1382]
special. *See* GUARDIAN, SPECIAL.
sureties of: recognizance of, after appointment, [1377]; before, [1378]
solvency of—affidavit of, [1379]
taking infant out of jurisdiction: summons by—for leave for, [1384]
undertaking by—to bring infant back within the jurisdiction, 586 (*v*), [1385]

GUARDIAN *AD LITEM*:
of infant, 46—49
affidavit for entry of appearance by, [92], [388]
appointment of, 46; motion paper for, [94]; notice of motion for, [130], [419]; affidavit in support, [95]
order not necessary, 46 (*s*)
deceased: in room of, 48; motion paper for, [97]; petition of course, [98]; affidavit in support, [99]
plaintiff's application: on, 46; notice of motion for, [94]; affidavit in support, [95]
consent of: to act, [93]; new, [96]
deceased: in room of. *See* appointment *supra*.
discharging order assigning: notice of motion for, [132]

GUARDIAN *AD LITEM*—*continued.*
of infant—*continued.*
entry of appearance by, affidavit for, [92], [388]
new: consent of, [96]
deceased: in room of, 48; motion paper for, [97]; petition of course, [98]; affidavit in support, [99]
order assigning guardian—notice of motion to discharge, [132]
plaintiff's application for. *See* appointment *supra.*
removal of, 49; and appointment of another—notice of motion or summons for, [100]
of lunatic, 54—60: and *see* 55, [118]
appointment of: where committee has adverse interest, 55; motion paper for, [119]; petition of course, [120]; affidavit in support, [121]
deceased: in room of—petition of course, [125]; affidavit in support, [126]
consent of: to act, *see* 55, [118]
deceased: in room of. *See* appointment *supra.*
discharge of order for, by plaintiff or defendant, notice of motion for, [132]
new: consent of, to act, *see* 55
deceased: in room of. *See* appointment *supra.*
removal of—notice of motion or summons for, *see* 55
of person of unsound mind not so found, see 55
appointment of—motion paper for, [122]; petition of course, [123]; affidavit in support, [124]
defendant found to be of unsound mind—motion by, for guardian where committee adversely interested, [119]; petition of course, [120]; affidavit in support of, [121]
plaintiff's application: on, 59; notice of motion for, [130]; affidavit in support, [131]
petition: on, 58; motion paper for, [127]; petition of course, [128]; affidavit in support, [129]

GUARDIAN, SPECIAL:
appointment of—summons for, [1383]
Lands Clauses Act, under—summons for, [2097]. *See* LANDS CLAUSES ACT.
Settled Estates Act: under—summons for, [2225]. *See* SETTLED ESTATES ACT.

HABEAS CORPUS, WRIT OF, 399—400
contemnor—motion paper for writ of *habeas corpus* to bring up, on his own application, [1009]; petition of course for like, [1010]
form of, [1012
præcipe for, [1011]

HABEAS CORPUS AD TESTIFICANDUM, WRIT OF, 304—306
fees on, 306 (*o*)
form of, [748]; at Chambers, [1115]; indorsement, [749]; *præcipe*, [747]
motion paper for, [744]; at Chambers, [1111]; petition of course, [745]; at Chambers, [1112]; affidavit in support, [746]; at Chambers, [1113]

HANDWRITING:
affidavit proving, [668]
proving by *viva voce* evidence, 275

HEARING, 323—350. *See* TRIAL.

HEIR:
advertisement for, [1165]

HEIRSHIP:
affidavit in answer to inquiry as to, [1168]
allegation of: common form of, in petition to carry on proceedings, [179]
pedigree in proof of, [1167]

HIGH COURT:
removal from, to a county court, 824—826. *See* REMOVAL OF CAUSE.
removal to, from Inferior Court, 826—836. *See* REMOVAL OF CAUSE.
transfer from one Division or Judge of, to another, 819—823.

HOUSE OF LORDS:
appeal to, 630—644. *See* APPEAL TO THE HOUSE OF LORDS.
taxing-master of, to, request to tax bill of costs, [1506]

HUSBAND AND WIFE: summary of material provisions of R. S. C., 1883, as to married women, and of Married Women's Property Act, 1882, 60—62 (*a*)
examination of wife, [1796]—[1800]. *See* MARRIED WOMAN.
questions between, as to property may be decided in a summary way, 61; summons for, [2286]
service of writ of summons on husband or wife—summons to dispense with, [133]
settlement: of none—affidavit by, [1801]; where settlement or agreement, but not affecting the fund, [1802]
writ of summons in action by, [266]

IDIOT. *See* LUNATIC—UNSOUND MIND, PERSON OF.

IMPRISONMENT, 401—404
attachment: under writ of—motion paper for, when brought up—by serjeant-at-arms, [1008]
contempt of Court: for—notice of motion for, [1015]
discharge from—notice of motion for, [1020]
discharge from, 402—404; motion paper for, [1018]; notice of motion, [1020]; for special contempt, [1021]; petition of course, [1019]
privilege from arrest on the ground of—notice of motion for, [1017]
judgment or order: for breach of, other than payment of money—notice of motion for, [1013]; affidavit in support, [1014]
serjeant-at-arms: of person brought up by, 399 (*v*); motion paper for, [1008]
And *see* COMMITTAL TO PRISON.

INCLOSURE ACT 1845, 950
money paid into Court under: application of—petition for, [2173]

INCOME-TAX:
deduction of—condition of sale as to, 545 (*u*), [1292 (8)]. *See* SALE UNDER JUDGMENT OR ORDER.
deduction of, on payment out of interest of fund in Court, 761, 767. *See* PAYMENT OUT OF COURT.
payment into court less—summons by purchaser for leave for, [1329]. *See* SALE UNDER JUDGMENT OR ORDER.
table of fluctuations, 563 (*e*)

INCUMBRANCES:
affidavit of result of searches for, 496 (*f*), (*ff*), 497—502. And *see* SEARCHES.
annuities—requisition for search for, in the registry of judgments, [1213]
beneficiary: by—affidavit of, [1194]
declaration that land is freed from—summons for, [1351]
keeping on foot by purchaser: leave for—summons for, [1348]
notice of, to executor or trustee—affidavit of, [1195]
particulars of, [1231]. Sched. 4.
affidavit by joint-executors and trustees verifying, [1231 (6)]
by sole trustee, [1236]
payment off by purchaser: leave for—summons for, [1347]; if purchase-money in Court, [1349]. And *see* SALE UNDER JUDGMENT OR ORDER.
real estate: on—affidavit as to, by several trustees, [1231 (6)]; by one, [1236]
schedule of, [1231], Sched. 4.
sale free from: mortgagee's consent to, [1287]
search for: result of—affidavit of, 496—498 (*f*), (*ff*), [1207]. And *see* SEARCHES.

INDORSEMENT. *See* the various proceedings.
writ of summons, on. *See* INDORSEMENTS ON WRIT OF SUMMONS.

INDORSEMENTS ON WRIT OF SUMMONS, 96—127
account—claim to have executorship account taken, [329]
mortgage, [331]
partnership, [328]
trust, [330]
address: of, 125. *See* WRIT OF SUMMONS. Summary of material provisions of R. S. C. 1883, as to, 125—126 (*a*)
character in which the parties sue or are sued, 126—127
executors, [334]
heir and devisee, [338]
public officer, [337]
qui tam actions, in, [339]
trustee, [336]
trustee in bankruptcy, [335]
claims in particular cases, 107—120; summary of material provisions of R. S. C. 1883, as to, 107 (*f*)
accommodation bill, [247]
account, [261]
administration: by creditor, [205]; by legatee, [206]
agent, *del credere*, [257]
agent, breach of contract to employ, [262]
breach of duty as factor, [262]
quitting employment, [262]
agent: money intrusted to, [241]
apprenticeship: breach of terms of, [263]
arbitration: breach of, [264]
arrears of rent, [313]
assault, [265]; by husband and wife, [266]
award: breach of, [264]
money payable under, [251]
bailment, [268]
balance at bank, [224]
banker: negligence of, [271]
banker's balance, [224]
bills of exchange, [255]
not accepting, [272]

References to the Forms are printed thus [479].

INDORSEMENTS ON WRIT OF SUMMONS, claims in particular cases—*continued.*
board and lodging, [234]
bond to secure money, [253]; not to carry on trade, [273]
breach of promise of marriage, [293]
calls on shares, [258]
calls on shares: money paid for, [250]
Campbell's Act, Lord, [292]
cancellation of deed, [212]
carriage of goods, [230]
carrier, negligence of, [274]
charter-party, [275]
commission, [226]
consideration: failu[illegible] retu[illegible] money on, [244]
contribution by co-debtor, [illegible]
contribution by surety, [24[illegible]
copyright: infringing, [305]
costs: indorsement of—amount of, [260]
covenant, breach of, [314]
crops, waygoing, [259]
defamation, [278]
del credere agent, [257]
depriving of goods, [277]
distress: wrongful, [280]
dower, [282 (a)]
driver—negligence of, [291]
ejectment, [281]
establishing title and recovery of rents, [282]
execution of trust, [211]
fees of office, [237]
fees as solicitor, [225]
fishing: infringement of right of, [283]
foreclosure or sale, [208]
foreign judgment, [254]
fraud, money obtained by, [242]
freight, [221]
fraudulent misrepresentation, [284]
general average, [220]
goods sold, [214]
goods sold, money lent and interest, [216]
guarantee: breach of, [285]
hire of goods, [232]; negligence, [270]
injunction, [311], [1611]
innkeeper: loss of goods by, [309]
insurance: fire, [287]
marine, [286]
premium: return of, [286]
interest, [219]
recovery of, [281]
landlord and tenant: neglecting to repair, [288]
lease: breach of covenants in, [288]
light: obstructing, [302]
mandamus, [310]
marriage: breach of promise of, [293]
medical attendance, [227]
medical man: negligence of, [289]

INDORSEMENTS ON WRIT OF SUMMONS, claims in particular cases—*continued.*
mesne profits, [312]
mischievous animal, [290]
mistake: money paid under, [243]
money lent, [215], [216]
overpaid, [236]
received, [236]
negligence of a driver, [291]
landlord, [288]
medical man, [289]
railway company, [291]
nuisance, [308]
partnership account, [207]
pasture: infringing right of, [301]
patent: infringing, [304]
penalties, [223]
pledge, [269]
policy of insurance, [252]
portions, raising, [210]
premiums on insurance policy: return of, [228]
quare impedit, [293]
raising portions, [210]
rectification of deed, [212]
redemption, [209]
rent, [217]; arrears of, [313]
rent paid, [246]
replevin, [279]
return of goods and damages, [276]
return of money by stakeholder, [239]
return of money won, from stakeholder, [240]
salary, [218]
sale of goods: breach of contract of, [295]
sale of land: breach of contract, of, [296]
schooling, [235]
seduction, [294]
several demands, [216]
solicitor: negligence of, [267]
specific performance, [213]
sporting: infringement of right of, [303]
support: taking away, [298]
surety, [245], [256]
contribution by, [248]
title: establishing and recovering rents, [282]
tolls, [222]
trade: carrying on, in breach of contract, [273]
trade-mark: imitating and using, [306]
trespass on land, [297]
trust: execution of, [211]
use and occupation, [231]
warehouse rent, [229]
watercourse: diverting, obstructing, polluting, [300]
way: wrongful obstruction of, [299]
work: breach of contract, as to, [307]
work done, [233]
wrongful dismissal of agent, [292]

References to the Forms are printed thus [479].

INDORSEMENTS ON WRIT OF SUMMONS—*continued.*
official and corporate bodies, descriptions of, in, 103—107. *See* WRIT OF SUMMONS.
special: allotment money and calls, [323]
bill of exchange, [318], [319], [320]
bond for money, [321]
calls, [323]
cheque, money due on, [317], [318]
covenant for payment of money, [322]
debt upon a trust, [326]
goods sold and delivered, [315]
guarantee, [324], [325]
landlord: recovery of land by, after notice to quit, [327]
money had and received, [316]
promissory note, [317]
trust, debt upon, [326]

INFANT, 38—52 and 580—592; summary of material provisions of R. S. C. as to, 38 (*a*); summary of material provisions of R. S. C. 1883, as to, on proceedings in Judges' Chambers, 580 (*a*)
action against, 45—52. *See* GUARDIAN *AD LITEM.*
action by, 39—44; dismissal of—notice of motion for, [76]
where judgment given in another action for the same purpose—notice of motion for, 43 (*n*), [82]
description of, in writ of summons, [204 cc]
inquiry as to, 42, 43; notice of motion for, [78]
inquiry which of two is better, 43; motion paper for, 43 (*l*), [79]; notice of motion, 43 (*m*), [80]
stay of proceedings consequent on—notice of motion for, 43 (*mm*), [81]
stay of proceedings in action brought in name of infant, [78]
stay of proceedings in, on coming of age, 44; notice of motion for, [86]. And *see* NEXT FRIEND, 38—44.
advancement of. *See* maintenance, *infra.*
appearance for, 46. *See* GUARDIAN *AD LITEM.*
apprenticing or articling—indenture for, [1391]
leave for—summons for, [1389]; affidavit in support, [1390]
born after judgment—carrying on proceedings against—petition of course for, [180]
chambers, at, proceedings as to, 580—592. *See* guardian: maintenance: marriage, &c., *infra.*
coming of age: on, dismissal of action by, 44; motion paper for, [84]; petition of course, [85]
making judgment absolute against—motion paper for, [106]; affidavit in support, [107]
showing cause against judgment, 49—52; *præcipe* for, [101]; subpœna for, [102]; indorsement by solicitor, [103]; by plaintiff in person, [103]
service out of jurisdiction—motion paper for leave for, [104]
substituted—motion paper for, [105]
stay of proceedings by, after judgment—notice of motion for, [86]
striking out name as co-plaintiff—notice of motion for [87]
conditional contract to grant lease, 942. *See* PROPERTY LAW AMENDMENT ACT.
co-plaintiff: making defendant—summons for, [83]
custody of, 978. *See* INFANTS' CUSTODY ACT, 1873.
default in appearance on behalf of, [94], [130]. *See* GUARDIAN *AD LITEM.*
guardian of. *See* GUARDIAN (580—586); GUARDIAN *AD LITEM* (45—52); GUARDIAN, SPECIAL, 585 (*t*).
inquiry as to action by. *See* action by, *supra.*

INFANT—*continued.*
judgment against, showing cause against, on coming of age, 49, *et seq.* [101]—[107]
born, after, continuing proceedings against—petition of course for [120]
judgment: making absolute—motion paper for, [106]; affidavit in support, [107]
jurisdiction: out of, leave to take—summons for, [1384]; undertaking to bring back, [1385]
leases by or to, 940—943. *See* PROPERTY LAW AMENDMENT ACT.
maintenance and advancement of: allowance for—summons for, [1386]; affidavit in support, [1387]
increase of—summons for, [1388]
marriage of: under Marriage Act—petition for, [1396]; affidavit in support, [1397]
committal of husband for—notice of motion for, [1393]
improperly procured: information under Marriage Act—affidavit to found, [1398]
interdicting—petition for, [1392]
leave for, of ward of Court—summons for, [1399]
proof of—affidavit in, [1402]
settlement on—where infant a ward of Court: approval of—minute of order for; recital of, in settlement, [1406]
preparation and completion of, [1401]
proposals for, [1400]
settlement on: when not a ward of Court—sanction to—summons for, [1403]; affidavit in support, [1404]
preparation and completion of, [1405]
recital in, of the order approving the same, [1406]
validity of: inquiry as to—notice of motion for, [1394]; petition, [1395]
Marriage Act. *See* marriage, *supra.*
ne exeat regno—undertaking by next friend of infant as to damages by reason of, [1659]
next friend of, 38—44. *See* NEXT FRIEND.
notice of judgment: service of, on. *See* service, *infra.*
proceedings against, 45—52. *See* GUARDIAN *AD LITEM* (71—91, &c.).
proceedings by, 39—44. *See* action by, *supra.*
service of writ of summons on, how effected, 45 (*q*)
service on, personally—summons for leave for, [88]; affidavit in support, [89]; summons that service effected on shall be deemed good, [90]; affidavit in support, [91]
father or guardian of, 166 (*d*); affidavit of, [414]
settlement on. *See* marriage, *supra.*
special guardian for, 585 (*t*). *See* GUARDIAN, SPECIAL.
trustee, vesting orders, 890, 892—893. *See* TRUSTEE ACTS.
writ of summons against: service of. *See* service, *supra.*

INFANTS' CUSTODY ACT, 1873, 978
petition under, of mother, for access and custody, [2219]

INFANTS' SETTLEMENTS ACT, 592—598. *See* INFANT, marriage.

INFERIOR COURT: County Court, 353 (*l*), 824—831. *See* COUNTY COURT.
Mayor's Court of London, 831—834. *See* MAYOR'S COURT OF LONDON.
removal from, 834—836. *See* REMOVAL OF CAUSE.
Stannaries Court, 370—372. *See* STANNARIES, COURT OF.

IN FORMÂ PAUPERIS, 33—36. *See* PAUPER.

References to the Forms are printed thus [479].

INFRINGEMENT. *See* INJUNCTION, copyright, patent, trade-mark.

INJUNCTION, 692—698; summary of material provisions of R. S. C. 1883, as to, 692 (*a*)
affidavit of service of order for, [1628]
ancient lights: to restrain interference with—notice of motion for, [1614]
bill of sale: sale under, as to, [1615]
breach of—notice of motion to commit for, [1631]
copyright: as to [1616], [1617]
discharge of for irregularity—notice of motion for, [1630]
dissolution of—notice of motion for, [1629]
distress: as to, [1618]
grant of, 693 (*c*)
indorsement on writ of summons of claim for, [1611]
interim—motion paper for, [1612]
interlocutory: dissolving—notice of motion for, [1629]
irregularity in order for: discharge of, because of—notice of motion for, [1630]
issue of, 693 (*c*)
lights: as to, [1614]
marriage of ward of Court: to restrain, [1625]
notice of motion for—general form of, [1613]
notice of order for, [1627]
partnership assets: as to, [1620]
patent: as to a, [1621]
pollution of a river: as to, [1619]
rent: to restrain distress for—notice of motion for, [1618]
service of order for—affidavit of, [1628]
ship: as to a—to restrain transfer of register and sailing, [1622]
stock: as to transfer of, and payment of dividends, [1623]
trade mark: as to, [1624]
timber: as to felling of, [1626]
ward of Court's marriage: as to, [1625]
writ of summons for, [1611]
And *see* RESTRAINING ORDER—STOP ORDER.

INQUIRIES, 467—491
additional—summons for, 973; after judgment, [1164]
affidavit by joint executors and trustees in answer to, as to real and personal estate, [1231]
annuities and legacies: as to, 489—491
claims: as to, 467 (*g*)—491. *See* CLAIM.
district registry: in—notice of motion or summons for, [1156]
heirship: as to—affidavit in answer to, [1168]
incumbrances: as to—affidavit by joint executors and trustees in answer to, [1231 (6)]; by sole trustee [1236]
infant's action: as to, 42—43. *See* INFANT, ACTION BY.
kindred: as to—affidavit in answer to, [1168]; list of certificates exhibited to, [1169]
legacies and annuities: as to, 489—491
notice of motion or summons for, 258, [642]
partition action—result of, in, as to persons interested—Chief Clerk's certificate as to, [1509]. *See* PARTITION ACTION.
pedigree: in proof of heirship and kindred, [1167]; affidavit verifying, [1168]

INQUIRIES—*continued.*
personal estate: as to—affidavit by joint executors and trustees in answer to, 510 (*g*), [1231]; by sole executor or administrator, [1235]
real estate: as to—affidavit by joint executors and trustees in answer to, 510 (*g*), [1231]; by sole trustee, [1236]
title: as to—summons by purchaser for, [1354]. *See* SALE UNDER JUDGMENT OR ORDER.
result of—Chief Clerk's certificate, [1215]
And *see* ACCOUNT.

INQUIRY, WRIT OF, 350 (*a*)
ascertainment of value of goods or damages otherwise than by—notice of motion or summons for, [425]
form of, [881]

INQUISITION:
elegit, on, 390 (*l*), [983]. *See* ELEGIT, WRIT OF.

INROLMENTS IN CENTRAL OFFICE:
recognizance by receiver, 722 (*m*)
scheme under Railway Companies Act, 924 (*d*)
search for—affidavit of, 498

INSOLVENCY BEFORE 1861:
search for—affidavit of, 500

INSOLVENT ESTATE:
notice of motion or summons to transfer administration of, to Bankruptcy Court, 38 (*c*), [66]; affidavit in support, [67]

INSPECTION AND PRESERVATION OF PROPERTY, 784—787; summary of material provisions of R. S. C. 1883, as to, 784 (*a*)
detention of property, 784 (*a*), (*b*)
light and air case: in a, taking drawings, &c.—notice of motion or summons for inspection, [1814]
mining operations: of—notice of motion or summons for inspection, [1815]
preservation or custody of property—notice of motion or summons for, 784 (*b*), [1811]
process: of—notice of motion or summons for, [1816]
sale of property—notice of motion or summons for, 785 (*c*), [1812]
samples: and taking—notice of motion or summons for inspection, [1813], [1816]
scientific witnesses, by, [1816]
subject-matter of action: of—notice of motion or summons for inspection, [1813]
surveyors, by, [1814], [1815].
underground workings: of—notice of motion or summons for, [1815]

INTERESSE SUO, EXAMINATION *PRO:*
receiver, in case of—notice of motion or summons for, [1698]
sequestration: in case of—notice of motion or summons for, [1043]

INTEREST:
affidavit of subsequent, on debts or legacies, [1809]; statutory declaration in like case, [1810]
amount of—affidavit of, [1742]; statutory declaration, [1743]; declarat thereto, [1744]
carrying over—notice of motion or summons for, [1754]

References to the Forms are printed thus [479].

INTEREST—*continued.*
debts: on—Chief Clerk's certificate as to, [1410 (2)]
subsequent, computation of—Chief Clerk's certificate as to, [1269]; affidavit of, on debts or legacies, [1809]; statutory declaration, [1810]
legacies, on—Chief Clerk's certificate as to, [1410 (4)]
legacies remaining unpaid, on, [1196]
payment of: corporation aggregate, to officer of—summons for, [1766]
corporation sole, to—summons for, [1765]
married woman, to, for separate use—summons for, [1761]
tenant for life, to—summons for, [1760]
trustees of a charity—summons for, [1765]
trustees of a settlement or will, to—summons for, [1763]
two persons, to—and survivor, [1762]. And *see* PAYMENT OUT OF COURT.
purchase-money, on—leave to pay into Court—summons for, by purchaser, [1329]: by separate purchasers, [1330]. *See* SALE UNDER JUDGMENT OR ORDER.

INTERIM INJUNCTION:
motion-paper for, [1612]. *See* INJUNCTION.

INTERIM RECEIVER:
appointment of—motion-paper for, [1676]. *See* RECEIVER.

INTERLOCUTORY APPLICATIONS:
appeal from order on, 625 (*i*); certificate on setting down, [1454]. *See* APPEALS TO THE COURT OF APPEAL.
evidence on, 260—316. *See* EVIDENCE, EVIDENCE IN CHAMBERS.
motion, by, 686—688. *See* MOTION.
petition, by, 589—591. *See* PETITION.
orders on, whether final or interlocutory, 623 (*e*)
summons, by ordinary, 430—432; by originating, 432—441. *See* SUMMONS, ORDINARY, and SUMMONS, ORIGINATING.

INTERPLEADER PROCEEDINGS, 677—682; summary of material provisions of R. S. C., as to, 677—678 (*c*)
affidavit in support of interpleader summons, [1577], [1579]
sheriff: by, 681 (*k*); summons, [1578]; affidavit in support of, [1579]
stakeholder: by, 678 (*c*); summons, [1574], [1575], [1576]; affidavit in support, [1577]

INTERPRETER:
appointment of, to translate depositions taken in foreign language—motion paper for, [730]; petition of course, [731]
oath of, verifying translation, [14], [732]; where foreigner's affidavit taken in English, [12]; in a foreign language, [13]; on a commission abroad, [723]
translation of depositions: verification of, by, [732]

INTERROGATORIES, 788—797; summary of material provisions of R. S. C. 1883, as to, 788—790 (*a*)
answer to: order for—summons for, [1830]; notwithstanding objection, [1833]
company, by secretary of, [1824]
further answer, order for—summons for, [1832]
joint and several, 794 (*n*)

References to the Forms are printed thus [479].

INTERROGATORIES, answer to—*continued.*
non-compliance with: attachment for—proceedings for, [993]—[1001], [1836]. *See* ATTACHMENT, WRIT OF.
dismissal of action for—summons for, [1834]
striking out defence for—summons for, [1835]
resisting, grounds for, 794 (*o*)
sufficiency of: consideration of, and order for further answer—summons for, [1832]
supplemental affidavit—summons for liberty to file, [1829]
time for: extension of—summons for, [1827]; after time expired, [1828]
attendance for examination on, *vivâ voce*, summons for, [1831]
Chambers: at, 447—450. *See* EVIDENCE IN CHAMBERS.
company—to ordinary member of, 792 (*g*)
to secretary of, [1824]
to several officers of, 792 (*g*)
delivery of: leave for—summons for, 790 (*b*), [1817]
company or corporation, officer of: to—summons for, [1823]
dismissal of action for non-compliance with order to answer—summons for, [1834]
examination *vivâ voce* on—summons for, 795 (*q*), [1831]
form of, [1824]
leave for, 790 (*b*). *See* delivery of, *supra*.
objection to—summons to answer notwithstanding, 796 (*s*), [1833]
postponement of, until after issue or question determined—notice of motion or summons for, [1826]
privilege, 794 (*o*)
resisting discovery by, grounds for, 794 (*o*)
security for costs of, 790 (*c*)
lodgment of money to security for costs account—request for, [1818]
Paymaster's direction for, [1819]
receipt—Bank certificate of, [1820]
payment out of money lodged as—request for, [1821]
person entitled to—certificate as to, [1822]
setting aside—summons for, [1825]
striking out—summons for, 793 (*j*), [1825]
sufficiency of answer to. *See* answer, *supra*.
summons for—leave to deliver [1817]

INVESTMENT:
Copyhold Acts, under, 944—946. *See* COPYHOLD ACTS.
Defence Acts, under, 948—949. *See* DEFENCE ACTS.
fund in Court, of, 753—757. *See* INVESTMENT OF MONEY IN COURT.
fund in Court, in real estate, 491—506. *See* INVESTMENT IN REAL ESTATE.
Lands Clauses Consolidation Act, under, 913—914 (*s*). *See* LANDS CLAUSES CONSOLIDATION ACT.
Legacy Duty Act, under, 935. *See* LEGACY DUTY ACT.
Parliamentary deposit, of, 899 (*f*). *See* PARLIAMENTARY DEPOSITS ACT.
real estate, in, 491—506. *See* INVESTMENT IN REAL ESTATE.

INVESTMENT OF MONEY IN COURT, 753—757; summary of material provisions of S. C. Fund, Rules, 1884, 753—755 (*v*)
certificate of investment—request for, [1752]
dividends: discontinuing investment of—request for, [1753]
investment in stocks: of cash or money on deposit—notice of motion or summons for, [1750]; the like for investment in railway stock, [1751]. And *see* PAYMENT INTO COURT.
order for, when requisite, 756 (*b*)

INVESTMENT IN REAL ESTATE, 491—506
abstract of title: examination of, on—affidavit of, by solicitor, [1200]; by another person, [1201]
approval of investment by trustees of trust fund in purchase or mortgage—summons for, [1198]; affidavit of surveyor in support, [1199]
conveyancing counsel, reference to, 494—496; summary of material provisions of R. S. C. 1883, as to, 494—495 (*a*). And *see* CONVEYANCING COUNSEL.
advise on title and settle draft—direction to—memorandum of, by Chief Clerk, [1202]
note of name of conveyancing counsel thereon in rotation, [1203]
draft settled by conveyancing counsel—certificate of solicitor verifying copy of, [1204]
engrossment of deed: examination of—affidavit of, [1205]; memorandum of identity of, [1206]
examination of abstract of title on—affidavit of: by solicitor, [1200]; by another person, [1201]
execution of deed—affidavit of, [1216]; certificate, [1215], [1217]
inquiry into title: result of—certificate of, by Chief Clerk, [1215]
searches on, 496 (*f*)—505; affidavit of result of, [1207]; identity of persons against whom searches made—affidavit of, 501
as to compositions or schemes of arrangement under Bankruptcy Act, 1883, 499
bankruptcies prior to 11th Oct. 1849, 500
bankruptcies under the Acts of 1849, 1861, or 1869, 499
Court Rolls, 498
creditors' deeds under Acts of 1861 or 1869, 500
enrolments in the Central Office which have been transferred to the Public Record Office, 498
insolvency before 1861, 500
Lancaster: Common Pleas, in, at, 501
Palatine Court, in, 501
land improvement rent charges, 500
Middlesex Registry, 498
receiving orders and adjudications under Bankruptcy Act, 1883, 499
settlement of deed—certificate of, by Chief Clerk, [1215]
surveyor—affidavit by, [1199]

INVESTMENT ON REAL SECURITIES IN IRELAND ACT, 944
petition under, [2164]

IRREGULARITY:
amendment: in order, for—summons to discharge order, and to strike out amendments, [359]
appearance, in—proceedings to set aside for, 162—164. *See* APPEARANCE.
attachment: order for—discharging for irregularity—notice of motion for, [1022]
injunction, in order for—discharge of order—notice of motion for, [1630]
judgment, in service of—motion paper or summons to enter memorandum of service, [168]
judgment, in, setting aside for, notice of motion or summons for, [435], [632]
writ of summons—in service of—setting aside, notice of motion for, [380]

IRRELEVANT MATTER:
affidavit, in, 4 (*a*)
interrogatories, in, 794 (*o*). *See* SCANDAL.

ISLE OF MAN:
affidavits in, before whom sworn, 6 (*k*)

ISSUE, JOINDER OF, 239, 243 (*m*)
forms of, [606], [607]

ISSUES OF FACT, 259, 328
determination of, in different modes—notice of motion or summons for, [816]
form of issue for trial without pleadings, 259 (*f*), [644]
judgment after trial of, on motion for judgment, [895]
jury: trial of, by—notice of motion for, [814], [840]
trial of: without—notice of motion or summons for, [817]
without pleadings, 259; notice of motion or summons for trial of, [643]
trial of: different modes of, for different issues—notice of motion or summons for, [816]
without pleadings, 259; summary of material provisions of R. S. C. 1883, as to, *ibid.*
notice of motion or summons for, [643]

JOINDER:
causes of action: of, 129; summary of material provisions of R. S. C. 1883, as to, 129 (*g*); with recovery of land; leave for—motion paper for, [342]

JOINT AFFIDAVIT:
formal parts of, [8], footnote to, *ibid.*

JOINT CASE:
on appeal to House of Lords, formal parts of, 639 (*x*), [1495] *See* APPEAL TO THE HOUSE OF LORDS.

JOINT STOCK COMPANY:
description of, in writ of summons, [204 m]

JUDGE:
opinion, advice or direction, of, 954—956. *See* LAW OF PROPERTY AND TRUSTEES' RELIEF AMENDMENT ACTS.
transfer from or to, 819—823. *See* TRANSFER.

JUDGES' CHAMBERS, 430—606. *See* CHAMBERS, JUDGES'.

JUDGMENT (and ORDER), 351—358; summary of various modes of enforcing, 359 (*a*)
accounts and inquiries, additional, after, summons for, [1164]. *See* ACCOUNT, AND INQUIRIES.
adding to: summons for, [174], [1164]
time for: extension of—summons for, [172]; after time expired, [173]
admissions, on, in pleadings, notice of motion, for, [614]. *See* ADMISSIONS.
advertisement of, [164 a]
appeal from: by person served with notice of, leave for—notice of motion for, [175]
appearance after, 157 (*h*)—158. *See* APPEARANCE.
appointment to settle and pass, 357, [899]
attendance of parties at proceedings under, in Chambers, 465—466
award, in pursuance of—setting aside, notice of motion for, [2132]. *See* AWARD.

References to the Forms are printed thus [479].

JUDGMENT (and ORDER)—*continued.*
certificate verifying copy of, for Chambers, [1157]
Chambers: proceedings under, in, 463—579. *See* CHAMBERS, JUDGES'.
clerical errors in, rectifying, 358 (*g*). *See* CLERICAL ERRORS.
Companies Act, 1862, under, Scotch or Irish Court, of—enforcing in England—
motion paper for, [933]
conduct of proceedings under, 461—462. *See* CONDUCT OF CAUSE.
confession of defence: on, [466], [886]
copy of, for Chambers, certificate verifying, [1157]
costs: for, on payment into Court by defendant, [446], [883]
County Court: after trial in, on certificate of registrar, [893]. *See* COUNTY COURT.
damages, for, assessed by writ of inquiry, 350 (*a*), [881]
default: in, 164—178, 249—254. *See* JUDGMENT IN DEFAULT.
default in obedience to, 395—401. *See* ATTACHMENT, WRIT OF, and COMMITTAL.
discharge of—enlarging time to apply for—summons for, [172]
after time expired, [173]
discontinuance: on, for costs, [635], [887]
dismissing action where plaintiff does not appear, [898]
drawing up, 355—358. *See* JUDGMENT, ENTRY OF.
enforcing, 359—429. *See* EXECUTION.
entry, 355—358. *See* JUDGMENT, ENTRY OF.
execution of, 359—429. *See* EXECUTION.
final or interlocutory, for purposes of appeal, whether, 623 (*c*)
foreclosure action, in: proceedings under, 655—664
forms of, [882]—[898]
indorsement on, for service, 393 (*d*), [988]
infant born after, continuing proceedings against—petition of course for, [180]. And *see* INFANT.
infant, making absolute against, on coming of age—motion paper for, [84]; petition of course, [85] *See* INFANT.
infant showing cause against, on coming of age, 49 (*b*)—50. *See* INFANT, coming of age.
Inferior Court, of, 834—836. *See* REMOVAL OF CAUSE.
injunction, for—service of—affidavit of, [1628]
interlocutory, for damages, [424], [429], [618], [622], [626]; for goods and damages for detention, [421]
Ireland: enforcement of, in, 369 (*t*). *See* Judgments Extension Act, *infra*.
Judge, after trial of action before, without a jury, [888a]
Judge, at trial of action before, without a jury, [888]
judgment in pursuance of order, [892]
Judgments Extension Act, 1868; certificate under—when judgment for plaintiff, [925]; for defendant, [926]; presentation of—minute of, [927]
jury: after trial by, [889]
Lancaster, Palatine County of, Court of Chancery, of, enforcing, 370
motion paper for, [928]; affidavit in support, [929]
land. *See* recovery of land, *infra*.
memorandum to be indorsed on copy for service, [988]
minutes of—notice of motion to vary, [901]
motion for, 317—322. *See* JUDGMENT, MOTION FOR.
on, [894]
on: after trial of issues of fact, [895]
neglect in obeying, proceedings on, 395, 401. *See* ATTACHMENT, WRIT OF, and COMMITTAL.
notice of, 74—80. *See* JUDGMENT, NOTICE OF.

JUDGMENT (and ORDER)—*continued.*
notice of motion for, 318—320. *See* JUDGMENT, MOTION FOR.
nunc pro tunc—memorandum for entry of, 358 (*f*), [903]
order, in pursuance of, [892]
Order XIV., r. 1: under, [442], 180—182; summary of provisions of Order XIV., 180 (*c*)
entry of—summons for, [439]; affidavit in support, [440]; in answer, [441]
Order XL., r. 2: under, [896]
Palatine Court: County of Lancaster, Court of Chancery of, enforcing judgment of, 370
parties by service of notice of, 74—80. *See* JUDGMENT, NOTICE OF.
passing: appointment for, 355—357, [899]
plaintiff not appearing—judgment dismissing action, [898]
proceedings under, in Chambers, 461—579. *See* CHAMBERS, JUDGES', judgments, proceedings under.
recovery of land, in action for, in default of appearance, 173 (*aa*)—174 (*c*), (*d*), (*e*)
delivery of defence, 251 (*n*), (*o*)—252. And *see* JUDGMENT IN DEFAULT, and LAND, ACTION FOR RECOVERY OF.
rectifying, 358 (*y*); notice of motion or summons for, [904]; motion paper for the like, [905]
referee: after trial before, [873], [890]; of questions of account, [874], [891]
registration of: in Middlesex or Yorkshire—memorial for, 368 (*r*), [922]
registry of—search in—requisition for, [1213]. And *see* SEARCHES.
registry or re-registry of—memorandum for, [917]
sale of land in order to satisfy—petition for, [1049]
satisfaction of—acknowledgment of, [918]; entry of satisfaction, petition of course for, by consent, [919]; special petition for the like, [920]; notice of motion or summons for the like, [921]
Scotland: enforcing in, 369 (*t*). *See* Judgments Extension Act, *supra*.
search for, in registry of judgments—requisition for, [1213]. And *see* SEARCHES.
service of: affidavit of, 17 (*c*), [32]
indorsement for, of memorandum on, 393 (*d*), [988]
substituted—motion paper or summons for, 394 (*c*), [989]; affidavit in support, [990]
when not required previous to issuing execution, 393 (*a*)
setting aside, for default in appearance, 177 (*l*). *See* JUDGMENT IN DEFAULT.
in delivery of pleading, 253 (*r*). *See* JUDGMENT IN DEFAULT.
for irregularity, 177 (*n*)—178, 254. *See* IRREGULARITY.
setting aside or rectifying—motion paper for, [905]; notice of motion or summons for, [904]
showing cause against, by infant on coming of age, 49 (*b*)—50. *See* INFANT, coming of age.
special case, on, 853—857. *See* SPECIAL CASE.
specially indorsed writ under Order XIV., on, [442], [884]. *See* Order XIV. *supra*.
specific performance, in action for, directing inquiry as to title—summons to proceed on, [1159], [1519]. And *see* SPECIFIC PERFORMANCE.
Stannaries Court: of, enforcing, 370, 371. *See* STANNARIES COURT.
third party, 68—73. *See* THIRD PARTY.
time for obeying: fixing—notice of motion or summons for, [986]; and for *interim* stay of execution, [914]
extension of time fixed—notice of motion or summons for, [987]; by defendant, [992]
trial by Judge alone: on, [888], [888a]; by jury, [889]; by referee, [873], [890]; by referee of questions of account, [874], [891]
varying: enlargement of time to apply for—summons for, [172]; after time expired, [173]

References to the Forms are printed thus [479].

JUDGMENT (and ORDER)—*continued.*
varying: on appeal—respondent's notice for, 627 (*p*), [1461]. *See* APPEAL TO THE COURT OF APPEAL.
writ of inquiry under, 350 (*a*). See INQUIRY, WRIT OF.

JUDGMENT IN DEFAULT:
of appearance, 164—178; summary of material provisions of R. S. C. 1883, as to, 164—166 (*a*)
account: for, 175; summons for, [430]
administration, 175, [430], [431], [432]
foreclosure, 176, [430], [431], [432]
partnership, 175, [430], [431], [432]
redemption, 476, [430], [431], [432]
affidavit of service, [414]; must be filed before proceeding to obtain, 164 (*a*)
form of, [882]
goods: in action for, and damages, or either, 172, 173
for recovery of specific chattels—leave to enter—motion paper for, [422]; summons for like purpose, [423]
for recovery of specific chattels—final judgment and interlocutory judgment for damages for detention, [424]
for value of, and damages for detention, [421]
value of, or damages ascertained otherwise than by writ of inquiry—notice of motion or summons for, [425]
land: in action for recovery of, 173 (*aa*); for recovery of whole, [426]; for recovery of part, [427]
and for arrears of rent, final judgment, [428]
and interlocutory judgment for mesne profits or damages, [429]
liquidated demand, whether writ specially indorsed or not, [420]
setting aside, 177; notice of motion or summons for, [433]; affidavit in support, [434]
for irregularity, 177; notice of motion or summons for, [435]; affidavit in support, [436]
when no appearance at trial, 335; notice of motion for, [836]
trial, at—by defendant—form of, [897]; by plaintiff—form of, [898]; setting aside—notice of motion for, [836]
of claim, delivery of statement of, 248 (*b*), (*c*)—249. *See* DISMISSAL OF ACTION AND PROSECUTION, WANT OF.
of defence, 249—254; summary of material provisions of R. S. C. 1883, as to, 247, 248 (*a*)
damages: in action for, and debt, [622]; where part of claim admitted—notice of motion or summons for leave to sign judgment, [627]
final, [621]; after damages assessed, [623]
interlocutory, [618]
debt: in action for—form of, [617]; and damages, [622]
form of, [883]
goods: in action for specific return of, and damages for detention, [619]
leave to enter—motion paper for, [619]; summons, [620]
interlocutory, [622]
land: in action for recovery of, [624]; and arrears of rent, [625]; and interlocutory judgment for mesne profits and damages, [626]
motion for judgment in any other action—notice of [628], [795]
setting aside, 253 (*r*); notice of motion or summons for, [630]; affidavit in support, [631]
irregularity, for—notice of motion or summons for, [632]; affidavit in support, [633]. *See* IRREGULARITY.
of pleading. *See* DISMISSAL OF ACTION and PROSECUTION (WANT OF).

JUDGMENT, ENTRY OF, 355(*a*)—358; summary of material provisions of R. S. C. 1883, as to, 355—358 (*a*), (*b*)
brief: production of, on—motion for, [990]
certificate of master, [923]; affidavit verifying signature, [924]
engrossment: return of, for—notice of motion for, [902]
minutes—notice of motion to vary, [901]
nunc pro tunc—memorandum for, [903]
Registrar: appointment by, for, [899]
return of engrossment for—notice of motion for, [902]
trial: at, Associate's certificate of, [855]
varying minutes on—notice of motion for, [901]

JUDGMENT, MOTION FOR, 317—322; summary of material provisions of R. S. C. 1883, as to, 317—318 (*a*)
brief on, [806 (1)]; indorsement on, [806 (2)]
fee on setting down, 321 (*m*)
issues, after trial of, [796]
issues: postponement of, and leave to set down action on—notice of motion or summons for, [797]
judgments on. *See* JUDGMENT.
notice of, 318, 320; form of, [795]; after trial of issues, [796]
extension of—summons for, [800]; after time expired, [800]
præcipe for, [801]
setting aside judgment entered and entering another, [798]; the like where judgment directed by a referee, [799]
setting down action on, 320 (*l*)—322; time for, 317, 318; *præcipe* for, [801]
notice of, [802]; service of—affidavit of, [803]
"short:" fitness to be heard as, 321 (*o*); certificate of, [804]; notice of being marked [805]

JUDGMENT, NOTICE OF, 74—80; summary of material provisions of R. S. C. 1883, as to, 74 (*a*)
advertisement, by, [164a]
affidavit of service of, [165]; on numerous persons, [166]
appeal: after service of—notice of motion for leave to, [175]
appearance by party served—memorandum of, [171]
certificate of entry of appearance by party served with, [170], [1161]
directions as to the mode of service of—summons for, 75 (*f*), [160]
discharging, varying or adding to judgment, after—enlargement of time for—summons for, [172]; the like after time expired, [173]
dispensing with, on particular persons, summons for, 75 (*f*), [160]
statement of, in Chief Clerk's certificate, 601 (*e*), [1410]
formal parts of, [158]
jurisdiction: service on person out of—motion paper or summons for, [161]; affidavit in support, [162]
memorandum indorsed on, in case of infant, or person of unsound mind, [159]
service of: affidavit of, [165]; on numerous persons, [166], schedule, form of, 81; by post, [167]
irregular: memorandum of, entry of, certificate of, [170]; motion paper or summons for, [168]; *præcipe* for, [169]
jurisdiction, on person out of—motion paper or summons for [161]; affidavit in support, [169]
memorandum of, entry of—certificate verifying copy for Chambers of certificate of, [1160]

References to the Forms are printed thus [479].

JUDGMENT, NOTICE OF—*continued.*
post-office: through—letter enclosing the notice, [163]; acknowledgment of receipt, [164]
special directions as to—summons for, [160]

JUDGMENTS EXTENSION ACT, 1868:
certificate under—where judgment for plaintiff, [925]; for defendant, [926]
presentation of—minute of, [927]

JUDICIAL OPINION, ADVICE, OR DIRECTION, 954—956. *See* LAW OF PROPERTY AND TRUSTEES RELIEF AMENDMENT ACTS.

JURAT, 6 (*l*):
blind deponent: of a, [11]
foreign deponent: of a, [12], [13]
forms of—where only one deponent, [9]; where several deponents, [10]
illiterate deponent: of an, [11]
marksman: of a, [11]
And *see* OATH.

JURISDICTION, service of notice of judgment out of, 76 (*g*). *See* JUDGMENT, NOTICE OF.
service of writ of summons out of, 143—148. *See* SERVICE OUT OF JURISDICTION.

JURY, 336—339
affirmation of a Quaker on the, [849]
objector to oath, of an, [850]
brief on trial of action with, [844]
calling, [845]
certificate of officer after trial by, 339 (*l*), [855]
challenge to the array of the, [846]
to the poll—oath of triers, [847]
considering verdict—oath of usher in charge of, [853]
issues of fact: trial of, with—notice of motion or summons for, [840]
without jury—notion of motion or summons for, [817]. And *see* ISSUES OF FACT.
notice of motion or summons for trial of action with, [814]
oath by, [848]
special, 336, 337; summary of material provisions of R. S. C. 1883, as to, 336 (*c*)
notice for, [841]; to sheriff [842a]
notice of motion or summons for, [842]
verdict, delivery of, [854]; oath of usher of Court, [853]
view by, 337; summons for, [843]
fees on, 337 (*g*)
And *see* TRIAL—ISSUES OF FACT.

LANCASTER, PALATINE COUNTY OF, COURT OF CHANCERY OF:
enforcing judgment of, 370; motion paper for, [928]; affidavit in support, [929]
searches in, affidavit of, 501
searches in Common Pleas at, affidavit of, 501

LAND:
entry upon, for purpose of inspection—notice of motion or summons for, [1814]; the like for inspection of underground workings, [1815]. *See* INSPECTION AND PRESERVATION OF PROPERTY.
Lands Clauses Consolidation Act—taking under, 912—917. *See* LANDS CLAUSES CONSOLIDATION ACT.

LAND, ACTION FOR RECOVERY OF, 158—160; summary of material provisions of R. S. C. 1883, as to, 158 (*m*)
appearance in, limited to part—memorandum of, [393]
notice of, [394]
person not named in writ, by—memorandum of, [401]; summons for leave for, [398]; notice of motion or summons for, after judgment, [399]; affidavit in support, [400]
defence: limited to part—further particulars of—summons for, [397]
notice limiting defence to part only of property mentioned in writ, [395]; extension of time to deliver—summons for, [396]
judgment in, by default of appearance, 173 (*aa*), 174 (*c*), (*d*), (*e*)
of delivery of defence, 251 (*n*), (*o*), 252. And *see* JUDGMENT IN DEFAULT.
statement of claim in, where action by heir-at-law against stranger, 219 (*a*), [532]
by landlord against tenant whose term has expired, 219 (*z*), [531]
writ of summons in—service of—affidavit of, in case of vacant possession, [415]
special indorsement, 125 (*z*), [327]

LAND REGISTRY ACT, 956

LAND TAX REDEMPTION ACTS, 938
selling timber under: leave for—petition for, [2154]

LAND TRANSFER ACT, 1875, 980

LANDS CLAUSES CONSOLIDATION ACT, 1845, 912—917
bill of costs, under: taxation of—petition of course for, [2098]
deposit under: interim investment of, and payment of income to tenant for life—summons for, [2093]
investment in land of: approval of—summons for, [2094]
infant: special guardian of, to convey, appoint trustee, &c., under—summons for appointment of, [2097]
lodgment of cash under, direction for—request for, under s. 69, [2090]; s. 76, [2091]; s. 85, [2092]
payment out to person absolutely entitled—summons for, [2095]; affidavit as to title of applicant, 915, [2096]
trustees to receive purchase-money or compensation—appointment of—summons for, [2097]

LAW OF PROPERTY AND TRUSTEES' RELIEF AMENDMENT ACTS, 952—955; summary of material provisions of R. S. C. 1883, as to, 954 (*a*)
judicial opinion, advice, or direction—petition for, [2180]; summons, [2181]
statement in support, [2182]
sale under power: establishment of, under, where part of purchase-money has been erroneously paid to tenant for life—petition for, [2178]; summons for, [2179]

References to the Forms are printed thus [479].

LEASE, 528—531
agreement to grant: approval of—executor's or trustee's summons for, [1259]
affidavit in support, [1260]
agreement for: approval of—minute of order for, [1265]
allowance of—memorandum of, [1263]
approval of—minute of order for, [1265]
counterpart of: examination of—affidavit of, [1262]
engrossment of: examination of—affidavit of, [1262]
identity of—memorandum of, [1263]
Property Law Amendment Act, under, 940—943
conditional contract to grant lease of infant's lands, [1360], [2159]
petition to carry into effect, [2160]; summons for, [2161]; affidavit in support, [1260], [2162]
surrender of lease and acceptance of new lease on behalf of infant or married woman: nominee for—petition for appointment of, [2155]; summons for the like in case of an infant ward of Court, [2156]
and grant of a new lease: where reversion belongs to infant or married woman—petition for, [2157]; summons for, in case of an infant, [2158]
And *see* TRUSTEE RELIEF ACTS.
renewal of, to executors or trustees—summons for, [1258]
settlement of draft of—summons for, [1261]
Chief Clerk's certificate of, [1264]

LEGACIES:
incumbrances on: affidavit as to, by beneficiary, [1194]; by personal representative or trustee, [1195]
unpaid: list of, and interest, [1196]

LEGACY DUTY ACT, 934—938
certificate of payment of legacy duty, [2145]; application to Inland Revenue Office for, [2144]
certificate that no legacy duty is payable, [2146]
legacy: transfer and payment of, under—petition for, [2151]; summons, [2152]; affidavit in support, [2153]
lodgment of cash under—direction for request for, [2147]
money paid in under: investment of—request for, [2148]
withdrawal of, from deposit—request for, [2149]
transfer of stock into Court under—summons for, [2150]

LETTER. *See* POST.

LETTERS OF ADMINISTRATION—allegation of—common form of, in petition for order to carry on proceedings, [179]. And *see* ADMINISTRATION, LETTERS OF.

LIBERTY TO ATTEND PROCEEDINGS, 465, 466

LIEN OF SOLICITOR, enforcing, 860—863. *See* SOLICITOR.

LIFE ASSURANCE COMPANIES ACTS, 1870—1872, 972, 973

LIGHTS, ANCIENT:
injunction to restrain interference with—notice of motion for, 693 (*e*), [1614]

LIQUIDATION ACT, 1868, 971

LIQUIDATOR, OFFICIAL:
description of, in writ of summons, [204n]

LIS PENDENS, 136—139; summary of material provisions of R. S. C. 1883, as to, 136 (*a*)
registration of, 136—139; memorandum for, [361]
fee on, 137 (*b*)
satisfaction of—acknowledgment of, [362]
entry of—notice of motion or summons for, [365]
special petition for, [364]; petition of course by consent, [363]
fee on, 137 (*f*)

LIST OF AFFIDAVITS, 279. *See* EVIDENCE BY AFFIDAVIT.

LOCAL BOARD:
description of, in writ of summons, [204t]

LOCAL LOANS ACT, 1875, 980

LODGING CASE ON APPEAL TO THE HOUSE OF LORDS, 630—644. *See* APPEAL TO THE HOUSE OF LORDS.

LODGING MONEY IN COURT. *See* PAYMENT INTO COURT, 742—760.

LONDON:
from or to, removal of action to or from district registry, 187—188. *See* DISTRICT REGISTRY.

LONDON AGENT:
notice of change of, [2608]. *See* SOLICITOR.

LORD OF MANOR:
consent of, to vesting order of copyholds, [2071]; affidavit verifying, [2072]

LORD MAYOR'S COURT. *See* MAYOR'S COURT OF LONDON, 831—834.

LORDS, HOUSE OF:
appeal to. *See* APPEAL TO THE HOUSE OF LORDS, 630—644.

LUNACY AND APPOINTMENT OF COMMITTEE—allegation of, common form of, in petition to carry on proceedings, [179]
of new committee, [179]

LUNATIC AND PERSON OF UNSOUND MIND, 52—60; summary of material provisions of R. S. C. 1883, as to, 52 (*a*). *See also* UNSOUND MIND, PERSON OF.
actions or proceedings against, 54—60. *See* GUARDIAN *AD LITEM*.
by, 52, 53. *See* NEXT FRIEND and COMMITTEE.
defendant: service on, order as to—summons for, [115]; affidavit in support, [116]
descriptions of, in writ of summons, [204dd], [204ee]
guardian *ad litem* of. *See* LIST OF FORMS, [118], and GUARDIAN *AD LITEM*.
next friend of, 53, 54. *See* LIST OF FORMS, [108], and NEXT FRIEND.
person falsely alleged to be of unsound mind—notice of motion by, to dismiss action brought in name of, [114]

LUNATIC AND PERSON OF UNSOUND MIND—*continued.*
special service on—summons for, [115]; affidavit in support, where defendant lunatic, [116]; where defendant is a person of unsound mind not so found, [117]
stay of action brought by, till next friend named—summons for, [113]

MAINTENANCE:
infant, of, 586, 587. *See* INFANT.
unsound mind, of person of, 599 (*t*). *See* UNSOUND MIND, PERSON OF.

MANAGEMENT OF PROPERTY:
by executors or trustees during the pendency of an administration action, 525–530. *See* ADMINISTRATION ACTION.

MANDAMUS:
action of, 705—706; summary of material provisions of R. S. C. 1883, as to, 705 (*a*)
issue of, 706 (*c*); notice of motion for, [1649]
writ of summons, indorsement of claim for, on, [1648]

MANOR, LORD OR LADY OF:
consent of, to vesting order of copyholds, [2071]; affidavit verifying, [2072]

MARKSMAN:
oath of, 9 (*tt*), [11]. *See* OATH.

MARRIAGE:
allegation of—common form of, in petition to carry on proceedings, [179]
extract from a parish register as to, certificate verifying, [657]
infant, of, 592 *et seq.* *See* INFANT, marriage of.
settlement—allegation of—common form of, in petition to carry on proceedings, [179]. And *see* INFANT, marriage of, and settlement.
execution of, proof of—affidavit, [667]

MARRIED WOMAN, 60—62; summary of material provisions of R. S. C. 1883, as to, 60—61 (*a*), I.
examination of, 778—780, [1796]—[1800].
certificate of examination, [1798]
commissioners for, appointment of—summons for, [1796]
form of, [1797]
identity of examination and certificate—memorandum of, [1800]
signature to examination and certificate—affidavit verifying, [1799]
execution against, 61
judgment under O. 14 against, 61
service on, or husband, of writ of summons: dispensing with—summons for, [133]
settlement, of none—affidavit by husband and wife, [1801]; where settlement or agreement, but not affecting the fund, [1802]. And *see* HUSBAND AND WIFE and PAYMENT OUT OF COURT.
statutory enactments affecting, summary of, 62 (*a*), III.
writ of summons by or against, when suing or sued under Married Women's Property Act, 1882—form of, 61 (*a*), II.

MARRIED WOMEN'S PROPERTY ACT, 1882, 1010—1011; summary of provisions of, 61 (*a*), II.
husband and wife: question between, decision of—summons for, [2286]
trustee of a settlement policy: appointment of—petition for, [2285]

MATTERS ARISING PENDING THE ACTION, 192—195. *See* PLEADING, further.

MAYOR'S COURT OF LONDON, 831—834
judgment in: enforcement of—*præcipe* for, [1927]; affidavit verifying judgment, [1928]
removal of action from, 831; notice of motion or summons for, [1921]; by *certiorari*, [1922]
certiorari, by: form of writ, [1924]; indorsement, [3], [4], [1926]; *præcipe*, [1923]; return to, [1926]
notice of motion or summons for, [1922]

MEMORANDUM:
appearance, of, [385]. *See* APPEARANCE.
award, on setting down as a special case, [2136]. *See* AWARD.
bill for Act of Parliament—of identity of draft of, [1366]; of approval of draft of, [1369]
conveyancing counsel—direction to, of, [1202]. *See* CONVEYANCING COUNSEL
deed, of identity of, [1206], [1263], [1283]
documents deposited in Court, on, [1859]. *See* DOCUMENTS, INSPECTION OF.
engrossment, of identity of, [1263]
entry of judgment *nunc pro tunc*, for, [903]
exhibit, of identity of, [28]
foreign court; case for, identifying, [1874]
judgment, registry or re-registry of, for, [917]
lease, of identity of, [1263]
lis pendens, registration of, for, [361]
married woman's examination, of identity of, and certificate, [1800]
notice of judgment, on, in case of infant or person of unsound mind, [159]; appearance, of, by party served with, [171]
referee's report—setting down, on, [871]
registry or re-registry of a judgment, of, [917]; of *lis pendens*, [361]
special case, on entering for argument, [1989]
And *see* the various proceedings.

MERCHANT SHIPPING ACTS, 1854 and 1855, 951—952
dealing with ship or share: prohibition of, under—motion paper or notice of motion for, [2175]; petition for, [2176]
limitation of liability: action for—advertisement for claimants under or judgment in, [2177]
sale of share vested in unqualified owner—petition for, [2174]

METROPOLITAN BOARD OF WORKS (LOANS) ACT, 1869, 971 (*b*).

MINUTES OF JUDGMENT OR ORDER:
lease—minute of order for approval of agreement to grant, [1265]
variation of—notice of motion for, [901]

References to the Forms are printed thus [**479**].

MISJOINDER of parties does not defeat action, 62

MORTGAGE:
account under—writ of summons for, [208], [209]
action upon—writ of summons in; for foreclosure or sale, [208]; for redemption, [209]
covenant in—affidavit to prove debt due on, [1180]
deficiency of personal estate—raising by, 531—532. *See* RAISING MONEY BY SALE OR MORTGAGE.
foreclosure of: action for, 655—664. *See* FORECLOSURE, ACTION FOR.
investment on mortgage of an estate, 491—506. *See* INVESTMENT IN REAL ESTATE.
redemption of: proceedings in action for, 664—665. *See* REDEMPTION, ACTION FOR.

MORTGAGE DEBENTURE ACTS, 1865 and 1870, 957—959
receiver at instance of holder of overdue debenture—petition for, [2185]; summons for, [2186]
registered security satisfied: discharge of—summons for, [2184]

MORTGAGEE:
account by. *See* possession, *infra*.
advance by—leave for payment of, into Court—summons for, [1267]
amount due to—when in possession—affidavit by, of, [1531]
when not in possession—affidavit by, of, [1529]. And *see* FORECLOSURE ACTION.
attendance by, on redemption day—affidavit of, when in person, [1539]; when by attorney, [1540]
attorney—power of, to attend and receive money due to a, [1537]
consent of, to sale free from incumbrances, [1287]
default of payment to, in foreclosure or redemption action—final order—motion paper for, [1538]
foreclosure action by, 655—664. *See* FORECLOSURE ACTION.
non-attendance by—enlargement of time for payment after—notice of motion or summons by, for, [1535]
payment to, enlargement of time for—notice of motion or summons by mortgagor for, [1534]
possession, in—account by, [1532]; affidavit verifying, [1531]
Chief Clerk's certificate of result of, [1533]
continuing, where mortgagee has received rents between certificate and time appointed for payment, [1536]
redemption action against, 664 (*t*)—665. *See* REDEMPTION, ACTION FOR.

MOTION, 686—688; summary of material provisions of R. S. C. 1883, as to, 686—687 (*a*)
evidence upon, 687
ex parte, 687 (*c*)
notice of, 23 (*e*). *See* NOTICE OF MOTION.
order on, absolute: making—motion paper for, [1592]
discharge of—notice of motion for, [1596]
paper: indorsement on, 22 (*a*), [36], [1590]. *See* MOTION PAPER.
special: brief on—indorsement on, [1595]
And *see* NOTICE OF MOTION.

References to the Forms are printed thus [479].

MOTION PAPER:
appeal—withdrawal of, by consent, for, [1456]
arrest of absconding debtor, for, [1665]
attachment on—to apprehend defendant where bail taken by sheriff, [1005]
habeas corpus—for writ of, to bring up contemnor on his own application, [1009]
to apprehend defendant—where '*non est inventus*' returned, [1007]
to turn over contemnor when brought up to Holloway prison, [1008]
attendance of witnesses on arbitration, for, [2126]
attendance of witness in court—for leave to issue *subpœna* for, [676]; before examiner, [768]
attendance of witness in custody before Chief Clerk—for writ of *habeas corpus ad testificandum* for, [1111]
award—to set down, as special case, [2135]
carry on proceedings—for order to, by surviving plaintiffs or plaintiff's successors. [177]
causes of action—for leave to join, [342]
cestuis que vie: production of—in court on default, for, [2140]
for final order on non-production of, [2142]
class, representative of a—for appointment of, [138]
de bene esse—leave to examine witness, for, [784]
discharge from custody, for, [1018]
on answering interrogatories, [1128]
on leaving accounts, [1228]
dismissal of action—before judgment, on infant coming of age, for, [84]
dismissal of action, on default in payment of redemption money, for, [1544]
documents deposited in court, production of, at trial, for, [1861]
entry of memorandum of service of notice of judgment—where service irregular, for, [168]
exhibits—for leave to prove—at trial, [671]
evidence—for leave to print—on appeal, [1465]
execution—for leave to issue, [906]
foreclosure action: final order in, for, [1558]
to dismiss—on default of payment of redemption money, [1544]
formal parts of indorsement of, [36], [1590]
garnishee order *nisi*, for, [1055].
guardian *ad litem* for person of unsound mind, so found—for, where committee adversely interested, [119]
defendant, by, of unsound mind, not so found—for, [122]
respondent to petition—where, [127]
guardian *ad litem* of lunatic or person of unsound mind: in lieu of one deceased—for appointment of, [97]
habeas corpus—for writ of, on contemnor's own application, [1009]
habeas corpus ad testificandum for attendance in court of witness in custody—for issue of, [744]
before Chief Clerk, [1111]
heir-at-law, representative of—to appoint, [138]
House of Lords—to make order of, an order of the High Court of Justice, [1505]
infant, inquiry which of two actions most beneficial to, for, [79]
interim injunction, for, [1612]
interim receiver, for appointment of, [1676]
Irish Court, enforcing order of, in High Court of Justice under Companies Act, 1862, for, [933]

MOTION PAPER—*continued.*
judgment, absolute, to make, [106]
judgment, leave to enter, for recovery of specific chattels—for, [619]
judgment or order, for rectification of, [905]
substituted service of, for, [989]
Merchant Shipping Acts, under—to prohibit dealing with a ship or share of a ship, [2175]
ne exeat regno, for writ of, [1656]
new next friend of infant—appointment of, in lieu of one deceased, for, [73]
next of kin, representative of—for appointment of, [138]
notice of motion, leave to serve, for, [1593]
order *nisi*, to make absolute, [1592]
Palatine Court of Lancaster—to make order of, an order of the High Court of Justice, [928]
pauper, leave to prosecute appeal as, for, [61]; claim as, [60]
petition, amend, leave to, for, [1608]
serve abroad, leave to, for, [1602]
receiver—for appointment of, by judgment creditor, by way of equitable execution, [1678]
receiver, interim—for appointment of, [1676]
record of the court—for production of original, [661]
reduction of capital—to dispense with words "and reduced," [2189]
referee, report of—to set down as special case, [870]
representative of estate—for appointment of, [134]
dispense with, to, [136]
heir-at-law, next of kin, or class of, for, [138]
restraining order under 5 Vict. c. 5, for, [1632]
Scotch Court—to enforce order of, in the High Court of Justice, under Companies Act, 1862, [933]
sequestrari facias de bonis ecclesiasticis—for leave to issue writ of, [1032]
sequestration, on sheriff's return to an attachment, for, [1025]
on keeper's certificate, or serjeant-at-arms, return, for, [1026]
sale of personal property under, for, [1041]
service out of jurisdiction of notice of judgment, for, [161]
petition of, for, [1602]
subpœna to show cause against judgment on infant coming of age, for, [104]
writ, leave to issue, for, as concurrent with one within jurisdiction, [343]
Settled Estates Act, 1877—to be heard on application, under, [2245]
shorthand writer's notes—for leave to use, as evidence on appeal, [1463]
solicitor—to strike off the roll, [1992]
solicitor and agent—for appointment of, by co-plaintiff for purposes of separate application, [2012]
Stannaries Court: judgment in action on common law side of—for leave to issue process on, [930]
decree of equity side of—to make same an order of High Court of Justice, [931]
stay of proceedings on special terms by consent, for, [1967]
strike out name of co-plaintiff, to, [143]
strike solicitor off the roll, to, by solicitor himself, [1992]
subpœna for attendance of witness in court—for leave to issue, [676]
subpœna ad testificandum—attendance in England of witness in Scotland or Ireland—for order for, [738]
subpœna duces tecum, attendance in England of witness in Scotland or Ireland—for order for, [738], [756]

MOTION PAPER—*continued.*
substituted service of judgment, for, [989]
order, of, for, [184]
petition, of, for, [1601]
subpœna for defendant to name solicitor, of, for, [2017]
subpœna to show cause against judgment on infant coming of age, of, for, [105]
writ or notice of, for, [368]
transfer of action—where order for winding up or administration made, for, [1892]
translator of depositions—appointment of, for, [730]
writ, amendment of, for, [353]
as to clerical errors, [351]
renewal of, for, [346]

MOTION FOR JUDGMENT, 317—322. *See* JUDGMENT, MOTION FOR.

NATIONAL DEBT ACT, 1870, 973
re-transfer of stock and payment of dividends: petition for, under, [2208]

NE EXEAT REGNO, WRIT OF, 709—712
bond to sheriff, in pursuance of, [1663]
damages in respect of, 710 (*e*); next friend's undertaking as to, [1659]
discharge of—notice of motion for, [1664]
fees on, 711 (*g*)
form of, [1661]; indorsement, [1662]
motion paper for, [1656]; affidavit in support, [1658]
præcipe for, [1660]
summons for, where proceedings commenced by originating summons, [1657]; affidavit in support, [1658]
writ of summons for, indorsement on, [1654]

NEW TRIAL, 348—349; summary of material provisions of R. S. C. 1883, as to, 348 (*a*)
application for: mode of, 349 (*c*)
grounds for granting, 348 (*a*)
notice of motion for, [879]
time for, 348 (*a*), 349 (*b*); extension of—summons for, [878]

NEWSPAPER. *See* ADVERTISEMENT.

NEXT FRIEND:
of infant, 38—44
appointment of new, by defendants—notice of motion or summons for, 42 (*j*), [77]
authority by, to use his name, 39 (*b*), (*bb*), [68]; by new next friend, and to continue proceedings, [69]
consent to be added as, [142]
death of. *See* substitution of, *infra*.
fitness of—affidavit of, [109]
new: approval of—notice of motion or summons for, by defendants, [77]
fitness of—affidavit of, 40 (*e*), [71]
substitution of, in room of one desirous to retire—summons for, [72]

NEXT FRIEND—*continued.*
deceased: in room of—motion paper for, 41 (*g*), [73]; petition of course, 41 (*g*), [74]
incapacitated or removed: in room of—notice of motion or summons for, 41 (*h*), [75]
removal of—notice of motion or summons for, 39 (*c*), [70]
undertaking by: as to damages, on applying for writ of *ne exeat regno*, [1659]
want of: dismissal of action for—notice of motion for, [76], [78]
of lunatic, 52, 53; summary of material provisions of R. S. C. 1883, as to 52 (*a*)
affidavit of fitness of, [109]
authority by. *See* 53, [68]; dismissal of action for want of—notice of motion for, [114]
new: approval of—notice of motion or summons for, 53, [70]; by defendants, 53, [77]
authority by, to carry on proceedings. *See* 53, [69]
fitness of—affidavit of, [109]
petition of course for new, in lieu of deceased, [111]
substitution of, for one desirous to retire—summons for, [72]
deceased: in room of—motion' paper for, 53, [73]; petition of course, [74], [111]; notice of motion for, by defendants, [77]
incapacitated or removed: in room of—notice of motion or summons for, 53, [75]; by defendants, [77]
removal of, and approval of new—notice of motion or summons for, 53, [70]; by defendants, [77]
want of, stay of proceedings for—summons for, [113]
of person of unsound mind, not so found, 52—53; affidavit of fitness of, [110]
authority by—want of—dismissal of action for, [114]
deceased, in room of—petition of course for, [112]. And *see lunatic, supra.*

NOTICE,
accounts—of leaving, [1240]
appointment to proceed on receiver's account, of, [1708]
action, of, [192]
address for service—of change of, [5]
admission of facts stated in pleading of opposite party, of, [647], [648]
pursuant to notice, of, [650]
to make, [649]
admit documents, to, [651]
agent, of change of town, [2010]
answer to interrogatories, of filing, [1127]
appeal—further evidence on, of intention to apply for leave to adduce, [1466]
appearance—of entry of, [152], [386], [387], [392], [394], [587]
counterclaim, to, [587]
judgment, after, by leave, [392]
landlord, of, as, [386], [394]
originating summons, to, [1094]
person, in, [387]
scheme of arrangement under Railway Companies Act, 1867, to, [2117]
solicitor, by, [386]
special case, to, [1986]
third party notice—on service of, [152]
attachment—to sheriff, on writ of, [997]
return, writ of, to, [947], [1001]

NOTICE—*continued.*
attendance by counsel before Chief Clerk, of, [1099]
Judge—on adjournment to, [1100]
attendance of witnesses—for, Court, before, [692]
examiner, before, [708], [1107]
special examiner, before, [708]
attornment, to receivers, for, [1693]
to sequestrators, for, [1037]
award—of setting down, for hearing as special case, [2137]
bond—of names of sureties and form of, [1669]
of objection thereto, [1670]
certiorari—of having issued writ of, to remove action from County Court, [1912]
Chief Clerk's certificate—of appointment to settle draft of, [1412]
objections to—to consider, [1412], [1414]
vary—of summons to, having been set down to come on with the action on further consideration, [1417]
with an adjourned petition, [1418]
claim by next of kin or heir-at-law—of entry of, [1166]
creditors—of allowance of claim of, [1178]
that cheques may be received, [1808]
to prove claim, [1176]
on petition for reduction of capital under Companies Act, [2209]
to produce documents, [1172]
creditors, to, under 22 & 23 Vict. c. 35, s. 29, [1190]
insertion of, in newspapers, 486 (*g*), [1190]
cross-examine witnesses in Court—of intention to, [692]
defence, limiting, [395]
depositions filed before issue joined—of intention to read, [688], [714]
discontinuance of action, of, [634]
district registry—by defendant to remove action from, to London, [454], [1894]
distringas, of—to restrain transfer of stock. *See* RESTRAINING TRANSFER OF STOCK, [1636]
elegit, sheriff to return writ of, for, [947], [981]
evidence taken in another action—of intention to read, [659], [660]
in Chambers, [1103]
examination of witnesses—of time and place for taking, by commission, [727]
under *subpœna* in Court, [737]
of intention to examine before examiner or special examiner, [789]
fieri facias, sheriff to return writ of, for, [947]
of renewal of writ of, [1075]
filing affidavit, of, [29], [1101]; in answer to inquiries, [1240]
affirmation, of, [29]
examination on interrogatories, of, [1127]
further consideration—of setting down for hearing on, [1423]
of adjourned cause having been set down in the Registrar's book, [1430]
of appointment for, of a summons, [1095]
House of Lords, intention to appeal to, of, [1475]
amendment of petition and lodgment of supplemental case—of intention to present petition for, [1485], [1498]
certificate as to sureties, for indorsement on, [1479]
death of appellant, of intention to present petition to revive appeal on, to, [1485], [1500]
extension of time, for, to lodge cases on appeal to, [1485], [1489]
intention to present petition to, of, [1485]

NOTICE—*continued.*
lodgment of case—of intention to present petition for, by respondent, [1485], [1493]
restore appeal, to, [1485], [1491]
withdrawal of appeal on payment of costs—of intention to present petition for, to, [1485], [1503]
injunction, of, [1627]
inspection of documents, refusing, [1851]
intention of client to act in person, of, [2011]
intention to adduce probate or stamped copy of will as evidence of devise, of, [663]
intention to cross-examine witnesses in court, of, [692]
intention to examine witness before examiner or special examiner, of, [789]
interrogatories, of appointment to settle, in Chambers, [1121]
examination to, of filing, [1127]
of settlement and allowance of, [1123]
sufficiency of examination to, of appointment to consider, [1130]
judgment or order, of, [158]
by advertisement, of, [164a]
judgment debtor, for attendance of, for examination, [1054]
limiting defence, [395]
motion for judgment, of having been marked "short," for hearing, [805]
name of obligor, of, in bond to secure costs, [1941]
new appointment for further consideration of summons, of, [1095]
objection to obligor, of, in bond to secure costs, [1942]
payment into court, accepting, in satisfaction of claim, by plaintiff, of, [445], [545]
in satisfaction of claim by defendant, of, [459]
security for costs, as, of, [1947]
transfer or deposit, general form of, [1745]
patent—of appeal to law officer, on application for, [1547]
produce documents, to, [665], [1845]
at trial, [1856]
in Chambers, [1131]
to creditor, [1172]
in pleading, for inspection, [1845]
witnesses, on examination of, [1856]
purchase-money—of intention to deal with, to purchaser, [1343]
practice masters, issued by, as to originating summonses, [1079]
Railway Companies Act, 1867—of appearance to scheme of arrangement, under, by opponent, [2117]
of confirmation and enrolment of scheme, under, [2120]
of order confirming scheme, under, [2118]
reading affidavit, &c., of intention of, [30]
filed before issue joined, of, [688]
in Chambers, on a proceeding at, [1102]
receiver's account—of appointment to proceed on, [1708]
reduction of capital on shares under Companies Acts—of presentation of petition for, [2192]
by creditor—of intention to oppose, [2204]
creditors, of list of, by advertisement, [2196]
claim, to prove, [2200]
day of hearing of petition for, by advertisement, of, [2203]
of registration of order confirming, by advertisement, [2206]
reference—of setting down report on, for hearing, [872]
removal of action from District Registry to London, of, [454

NOTICE—*continued.*
renewal of writ, of, to sheriff, [1075]
restraining transfer of stock, [1636]
security for costs—of name of obligor on, [1941]
of objection to name of obligor, on, [1942]
of payment into Court as, [1947]
of substitution of new obligor on objection, [1943]
sequestrators—by—general form of, [1036]
to attorn, [1037]
service out of jurisdiction, in lieu of writ, for, [374]
District Registry—where writ issued from, for, [375]
setting down action for hearing on further consideration, of, [1423]
on adjournment of from Chambers, [1430]
motion for judgment, on, [802]
trial in County Court for, of, [876]
setting down award for hearing as special case, of, [2137]
setting down report on reference, of, for hearing, [872]
setting down special case for argument, of, [1990]
Settled Estates Act, 1877—of application under s. 26, [2240]; notification to be annexed to, [2241]
for insertion in newspapers, [2244]
of day appointed for hearing petition, under, [2247]
to trustees under s. 30, [2243]
"short cause"—of marking as, motion for judgment, on, [805]; trial, on, [823]
on hearing on further consideration, [1425]
solicitor—of appointment of, instead of acting in person, [2007]
of change of, [2008]
of intention of client to act in person instead of by a, [2011]
striking off roll, to Registrar—of intended application for, [1995]
solicitor and agent—of change of, [2008]
special case—of filing of, [1982]
of setting down, [1990]
special jury—trial by, of, [841]
to sheriff—that action is to be tried by a, [842a]
substitute new obligor—on objection—in bond to secure costs, [1943]
substituted service of writ, for—by advertisement, [371]
summons—of appointment for further consideration of, [1095]
surcharge—of, [1242]
sureties—of names of, [1669]
of objection to, [1670]
testamentary disposition of real estate—of intention to adduce probate, &c., in evidence of, [663]
validity of—of intention to dispute, [664]
transfer of stock—of request for, by Bank of England, [1641]
trial of action—of, [811]; to countermand, [820]
of place for, [807]
Trustee Relief Act, payment and transfer in, under, of, [2051]
validity of devise—of intention to adduce probate, &c., in evidence of, [663]
of intention to dispute, [664]
variation of Chief Clerk's certificate—of adjournment of summons for, to come on with further consideration—of, [1417]
to come on with adjourned petition, [1418]
witness—to—of time and place for attendance—appeal, on, [1469]; Assizes, at, [737], [755]; Chambers, at, [737]; commission, on, [727]; Court, in, [737]

NOTICE—*continued.*
examiner of the Court, before, [708]
special examiner, before, [708]
in Scotland or Ireland—of, [743]
on subpœna, [761]
writ—of—for service out of jurisdiction, [374]
District Registry, where issued from, [375]

NOTICE OF MOTION:
abandonment of matter by amendment—payment of costs of—for, [477], [478], [479]
absconding debtor—to discharge order for committal of, [1674]
account—sequestrators to—for, [1042]
accounts or inquiries—for, [642]
action of review—leave to bring—for, [1580]
stay of, brought without leave, [1581]
admission in pleadings—for order on, [614]
affidavit—scandalous—to take off file, [678]
scandalous matter in—to strike out, [679]
amendment—for payment of costs of matter abandoned by, [477], [478], [479]
appeal—for advancement of, [1472]
amendment of notice of—for, [1455]
dismissal of, for want of prosecution—for, [1459],
leave to, by party served with notice of judgment—for, [175]
leave to respondent to serve notice that order appealed from should be varied—for, [1460]
security for costs on—for, [1458]
stay of proceedings pending—for, [1448]
vary minutes of order on—to, [1473]
withdrawal of, where not consented to—for, [1457]
appearance—to set aside—by plaintiff, [412]
unauthorized—to set aside, [410]
withdrawal of—for, [409]
appearance—leave to enter after time expired, for, [151], [403]
appearance after judgment—leave to enter, [390]
by person not named as defendant, [399]
appearance by third party—for entry of—after time expired, [151]
arbitration—to make reference to, an order of Court, [2121]
to refer action to, [2123]
arbitrator—to revoke appointment of sole, [2124]
to remit matters to, [2133], [2134]
attachment, writ of—for leave to issue, [993]
accounts, for not leaving, [1221]
discharge order for, for irregularity—to, [1022]
attendance of witness before examiner—for, [767]
objecting witness—for subsequent attendance of, [794]
attornment: to receiver—for, [1695], [1696]
and occupation rent to be set—for, [1696]
to sequestrators—for, [1039]
award—to make, an order of Court, [2130]
to set aside, [2132]
bond in suit—to put, [1673]
carry on proceedings—to discharge or vary order to, [188]
causes of action—for exclusion of, [481]
separate trial of distinct—for, [815]

References to the Forms are printed thus [479].

NOTICE OF MOTION—*continued.*
certiorari, to remove action from County Court—for, [1907]
to remove action from Mayor's Court—for, [1922]
to remove judgment from County Court for purpose of issuing execution—for, [1915]
to remove judgment from inferior Court under 19 Geo. III. c. 70, for purpose of execution—for, [1931]
cestuis qui vie—for production of out of Court, [2138]
claim, statement of—to strike out part of, [638]
class—representative of—for appointment of, [139]
commission for examination of witnesses abroad—for, [716]
committal to prison, 401 (*a*)
breach of injunction—for, [1013], [1631]
breach of judgment or order—for, [1013]
contempt of Court—for, [1015]
husband for marrying ward of Court without leave of—for, [1393]
order for, when obtainable, 401 (*a*)
sheriff—of, for, [1016]
compromise of action—to enforce agreement for, [1971]
consolidation of administration actions, of, where no judgment—for, [1879]
against same defendant, [1877]
against different defendants on one contract, [1877]
contempt, for: discharge from custody—for, [1018]. *See* discharge, *infra*.
co-partners—to stay proceedings until particulars of firm given, [51]
copyright—to expunge entry of, in register book of Stationers' Company, [1558]
infringement of—to restrain, [1560], [1616], [1617]
costs of action—for payment of, where sum paid into Court in satisfaction of claim has been accepted, [546]
counsel's brief—production of, to registrar—for, [909]
counterclaim—to exclude, [588]
County Court—to transfer action or matter from, [1906]
de bene esse, leave to examine witness—for, [786]
discharge order, for—to, [788]
leave to use deposition taken—for, [791]
defence or counterclaim—withdrawal or striking out of—for, [641]
deposit in Court of exchequer bills—for, [1734]
of securities passing by deed—for, [1736]
of securities passing by delivery—for, [1735]
of such effects as must be placed in box—for, [1738]
discharge from custody—for, [1020]; where protected from arrest, [1017]
special contempt, for, [1021]
discharge of committal order under Debtors Act—for, [1674]
discharge of order of course for taxation, for irregularity—for, [2030]
discharge of order for injunction for irregularity—for, [1630]
on motion, [1596]
on petition, [1596], [1610]
order made at Chambers, [1140]
discontinuance of action—for, [637]; on special terms, [640]
discovery: to postpone—until after issue or question determined, [1826]
dismissal of action—costs, in default of payment of—for, [1963]
frivolous, as, or vexatious—for, [613]
next friend of infant not named, where—for, [76]
non-delivery of statement as to names of co-partners in plaintiff's firm when cause of action accrued—for, [54]
plaintiff falsely alleged to be a person of unsound mind—for, [114]

NOTICE OF MOTION—*continued.*
unless prosecuted against plaintiffs' successors—for, [1975
unless prosecuted against defendants' successors—for, [1976
unless trustee of bankrupt plaintiff proceed—for, [1977]
want of prosecution—for, [1974]; for default in delivery of claim, [615
for default in reply, [629]
for default of giving notice of trial, [810]
dismissal of, or inquiry as to, action by infant—for, [78]
directions, for—after appearance of third party, [156]
district registry—for action to proceed in, [1896]
for removal of action from, to London, by plaintiff, [1897]; by defendant, [454], [1894]
for removal to—from London, [1898]
to retain action in—by plaintiff, [438]
documents deposited in Court—for delivery out of, [1865]
election by plaintiff which of two actions shall proceed—where one in a foreign country—for, [1978]
elegit—for account under, [985]
engrossment of judgment or order—for return of, [902]
entry of satisfaction of registered writ of execution—for, [1048]
evidence: defect in—for leave to supply, [656]
examination of witnesses—for issue of letters of request for, [729 a]
examiner—for examination of witnesses before, [704]
examiner, special—for appointment of, [702]
to take evidence of witness, before, [704]
witness abroad—to take evidence of, [706]
execution—leave to issue—for, [906]
execution under 7 Geo. IV. c. 46, s. 13—leave to issue—for, [907]
under 8 & 9 Vict. c. 16, s. 36, [911]
against public officer of banking company, [909]
execution—for stay of, [913]
and to enlarge time to obey judgment or order, [914
and of all other proceedings in action, [916]
pending appeal, [915]
foreclosure judgment under 7 Geo. II. c. 20, s. 2—for, [1527]
continue accounts under—to, [1536]
foreign law—to have case for ascertainment of, settled in Chambers 1871]
to apply opinion on, [1876]
further consideration—to remit cause to referee for, [867]
where no further consideration adjourned, [867], [869]
guardian *ad litem* of infant, at instance of plaintiff—for appointment of, [94], [419]
removal of—for, and new appointment, [100]
guardian *ad litem* for person of unsound mind—for assignment of, by plaintiff, [130], [419]
discharge, order assigning—to, [132]
heir-at-law—representative of—for appointment of, [139]
injunction—for:
ancient lights—to restrain interference with, [1614]
bill of sale—to restrain sale of goods under, [1615]
copyright—to restrain infringement of, [1554], [1560], [1616], [1617]
dissolve—to, [1629]
dividends—to restrain payment of, [1623]
form of—general, [1613]
marriage of ward of Court—to restrain, [1625]

NOTICE OF MOTION—*continued.*
partnership assets or business—to restrain interference with, [1620]
patent: infringement of—to restrain, [1621]
pollution of stream by Local Board—to restrain, [1619]
rent—to restrain execution for, [1618]
ship—to restrain transfer of register or sailing of, [1622]
stock—to restrain transfer of, [1623]
timber—to restrain felling of, [1626]
trade-mark—to restrain infringement of, [1624]
injunction, for—general form of, [1613]
injunction: interlocutory—to dissolve, [1629]
inquiries or accounts, for, [642]
inquiry whether infant's action beneficial—for, [78]
inquiry which of two infant's actions most beneficial—for, [80]
inspection—to postpone, until after issue or question determined, [1846]
inspection of premises in patent action—for, [1553]
of premises, and taking drawings, in light and air action—for, [1814]
of process of defendant—for, [1816]
of subject-matter of action and taking samples—for, [1813]
underground workings—for, [1815]
investment in stock, of cash or money on deposit in Court—for, [1750]
in railway stock, for, [1751]
issue or question of fact without pleadings—for trial of, [643]
issues—for trial of, [814], [816], [817], [840], [842], [1555]
to postpone, [797]
judgment, on admission of part of claim—for leave to sign, [627]
engrossment of—for return of, [902]
enlarge time to obey, to, [914]
fix time to obey, to, [986]
to enlarge time fixed, by plaintiff, [987]; by defendant, [992]
minutes of, settlement of—for production of counsel's brief on, within a limited time, [900]
rectify—to, [904]
satisfaction of—for entry of, [921]
set aside, to, obtained in default of appearance, [433]; in default of appearance at trial, [836]; in default of defence, [630]
for irregularity, [435], [632]
set aside, to, and enter another, [798]
directed by referee and enter another, [799]
set aside or vary, to—by third party, [154]
judgment, for, [795]
after decision of action other than by trial—for, [155]
leave to set down for, and to postpone trial of issues—for, [797]
where issues directed and tried—for, [796]
judgment of inferior court—for removal of, under 1 & 2 Vict. c. 110, [1929]
judgment debtor—for examination of, [1053]
lis pendens—for entry of satisfaction of, [365]
mandamus—for issue of, [1649]
marriage of ward of court—for inquiry into validity of, [1394]
matter abandoned by amendment—payment of costs of—for, [477], [478], [479]
Mayor's Court—for removal of action in, [1920].
Merchant Shipping Acts, under—to prohibit dealing with a ship or share of a ship, [2175]
minutes of judgment or order—to vary, [901]

NOTICE OF MOTION—*continued.*
motion, of, formal parts, of, [38], [1591]
on appeal, [1452]
ne exeat regno—to discharge writ of, [1664]
new trial—for, [879]
next friend of infant—for removal of, [70]
new next friend of infant—for appointment of, at instance of defendant, [77]
new next friend of infant—for approval of, [70]
in place of one incapacitated or removed, [75]
next of kin, representative of—for appointment of, [139]
open biddings or for resale, to, [1358]
parties, to add, [140], [146]; strike out or substitute, [140]
partition action, notice of judgment—to dispense with service of, and for advertisements, [1510]
partners, names of, constituting firm—to stay proceeding until discovery of, [51]
patent, entry in registry of proprietors—to expunge, [1546]
injunction for infringement of—for, [1554], [1621]
inspection of process—for, [1553]
issues, trial of—for, [814], [816], [817], [1555]
particulars of breaches, further and better—for, [1551]
amendment of—for, [1552]
pauper—to discharge order to sue or defend as, [64]
payment into court of money, with interest—for, [1729]
purchase money of—to fix time for, [1524]
perpetuate testimony, action to—for plaintiff to proceed with or pay costs, [1571]
evidence taken in—to use, [1572]
petition of right—to take as confessed, [1586]
point of law—to set down for hearing, [608]
preservation or custody of property under R. S. C. 1883, O. 50, for, [1811]
pro interesse suo, for examination, 730 (*e*)
in case of a receiver, [1698]
in case of a sequestrator, [1043]
prohibition, writ of—to discharge, [1653]
purchase money—to fix time for payment of, [1524]
question of law—to set down for argument, [1980]
Railway Companies Act, 1867, under—to stay proceedings in action against company after scheme under Act filed, [2111]
order confirming scheme—for leave to appeal from, [1451], [2119]
receiver—for appointment of, [1677]
to discharge, [1717]
payment of arrears of rent to—for, [1699]
monies received by defendant to—for, [1702]
recognizance of—to stay action on, [1716]
redemption—to enlarge time for, [1534], [1535]
failure of mortgagee to attend—for new time to be fixed, [1535]
referee, accounts before—for taking, [859]
official—for trial of action by, [860]
reference to—for, [856], [857]
report of—to adopt, [868]
to vary or remit cause on further consideration, [867]
where no further consideration adjourned, [867], [869]
trial of question by, for, [858]
refusal to proceed by co-plaintiff—to make such co-plaintiff a defendant, [141]

NOTICE OF MOTION—*continued.*
representative—for appointment of, [139]
of a class, [139]
heir-at-law, [139]
next of kin, [139]
resale—for, [1358]
restraining order under 5 Vic. c. 5—to discharge, [1634]
restraining transfer of stock—for cesser of operation of notice for, [1639]
review—action of—leave to bring, for, [1580]
stay of, brought without leave, [1581]
sale of property under R. S. C. 1883, Ord. 50—for, [1812]
securities in Court—to carry over, of a given value, [1757]
securities, money on deposit, cash, dividends and interest, [1754]
specific amounts of, and proportionate parts of dividends, [1755]
specific amounts of, parts of a larger sum, [1756]
security for costs on appeal—for, [1458]
sequestration—for leave to issue—against property of corporation or of directors or officers thereof, [1024]
dissolution of—for, [1044]
sequestrators—for attornment to, [1039]
for accounts by, [1042]
service out of jurisdiction of writ of summons—to set aside order for, [381]
on foreigner out of British dominions, [382]
Settled Estates Act, 1877—for leave to be heard on an application under, [2245]
solicitor—to strike off the roll, [1996]
special case—for, [1979]
amendment of, [1984]
set down—for leave to, [1987]
statement of claim—to strike out part of, [638]
stay of proceedings—for, [1973]
action commenced without authority in case of, [1957]
administration action in, where judgment in another given, [1880], [1881]
bankruptcy of defendant, on, [65]
frivolous or vexatious action, in, [613], [1964]
infant's actions, in, on result of inquiry which of two most beneficial, [81]
after judgment in another action for same purpose, [82]
infant coming of age—for—after judgment, [86]
partnership action, in—where parties have agreed to refer to arbitration, [1568]
pending appeal, [1448]
railway company, against—after scheme filed, [2111]
reference agreed to—after, [1972]
review, action of, brought without leave, in, [1581]
special terms—by consent on, [1969]
submission to plaintiff's demands, on, [1965], [1966]
until authority of plaintiff's solicitor issuing writ shewn, [450]
until costs paid, [1962]
until demand for names of plaintiff's firm complied with, [51]
where several actions brought raising same question, [1882]
strike out name of co-plaintiff on coming of age—to, [87]
strike out name of co-plaintiff from writ issued without authority—to, [1958]
third party notice—for leave to issue and serve, [147]
entry of appearance to—for leave for, after time elapsed, [151]
directions for, after appearance, for, [156]
set aside—to, [153]

NOTICE OF MOTION—*continued.*
title: inquiry into, in action for specific performance—for, [1518]
trade-mark—for leave to add to or alter, [1566]
infringement of—to restrain, [1562], [1624]
rectify Register of Trade Marks, to, [1565]
transfer of action, for, [1890]; commenced in wrong division—for, [1885]
from one division or judge to another—for, [1889]
transfer of proceedings to administer estate of deceased debtor—for, 38 (*e*), [66]
transfer into Court of stock and dividends—for, [1733]
trial of action—to advance, [828]
to postpone, [830]
by a judge with a jury—for, [814], [840]
by official referee, [860]
by special jury, [842]
trial—for, of different questions of fact by different modes, [816]
trial of issues—to postpone, [797]
by a jury—for, [814], [840]
by special jury—for, [842]
without a jury—for, [817]
trial, mode of—for special order as to, [813]
trial, new—for, [879]
trial, place of—to change, [808]
trials: separate—of distinct causes of action—for, [815]
witness, attendance of, in Court—to dispense with, [704], [705]
where evidence taken abroad, [706]
writ of summons—to set aside, [377]
concurrent—to set aside, [378]
service of—to set aside, [380]

NUNC PRO TUNC, entry of judgment—memorandum for, [903]. *See* JUDGMENT, ENTRY OF, 355—358.

OATH, 310—312. And *see* AFFIRMATION and AFFIDAVIT.
affidavit: to, where one deponent, 6 (*i*), [9]; where several, [8]
blind deponent: of a, 9 (*tt*), [11]
Chinese: of a, [782]
examiner: before an, 290, 310, [770]
foreigner deposing in English through interpreter: of a, 9 (*u*), [12]; in foreign language, 9, [13]
illiterate deponent: of an, 9 (*tt*), [11]
interpreter of evidence: of an, 9 (*a*), (*b*), [13], [783]
Jew: of a, 6 (*i*)
jurors: of, [848]
marksman: of a, 9 (*tt*), [11]
objectors to: affirmations of, 310—312. *See* AFFIRMATION.
ordinary form of, on examination in Court, [769]
Presbyterian: of a, 10 (*f*), [15]; in open Court, [771]; the like before an examiner, [772]
translation of depositions: verifying, [732]
usher in charge of jury: of, [853]

ORIGINATING SUMMONS, 432 (*h*). *See* SUMMONS, ORIGINATING.
administration on, 455—461. *See* ADMINISTRATION OF ESTATES AND TRUSTS ON ORIGINATING SUMMONS.

OUTSTANDING ESTATE—leave to convert—summons for, by executor, [1250]

PALATINE COUNTY OF LANCASTER, COURT OF CHANCERY OF:
enforcing judgment of, 370
motion paper for, [928]; affidavit in support, [929]

PARLIAMENT: bills for Acts of—settlement of, 578, 579. *See* CHAMBERS, JUDGE'S.

PARLIAMENTARY DEPOSITS, 898 (*a*)—911
advertisement for creditors when company insolvent and ordered to be wound up or a receiver appointed, [2089]
advertisement for landowners or road authorities claiming compensation, [2088]
distribution of deposited fund exceeding £1,000 and inquiries—petition for, by landowners, [2082]
by official liquidator or receiver of the company, [2084]
by Treasury solicitor, [2083]
not exceeding £1,000—summons by landowners or Treasury solicitors, [2085]
by official liquidator or receiver or the like, [2086]
dividends on stock deposited—summons for payment of, 899 (*f*), [2080]; affidavit verifying signature, [2079], [2081]
forfeiture of deposit, 901
inquiries as to landowners, road authorities and creditors—order for, [2087]
investment of deposit under—summons for, 899 (*f*), [2076]
lodgment of cash—request for direction for, [2074]
of stock—request for direction for, [2075]
payment out of cash or stock or stock purchased—summons for, 900 (*j*), [2077]
signature of chairman of committees of House of Lords, or of Speaker or Deputy-Speaker of House of Commons—affidavit verifying, [2078]
signatures to a summons—affidavit verifying, [2079]

PARTICULARS OF PLEADING, 201, 202
amendment of—summons for leave for, [485]
debt, expenses or damages, of, [482]
form of, delivered pursuant to order, [484]
summons for, [483]
of claim, [491]
of defence, [540]
of counterclaim or set-off, [593]

PARTICULARS OF SALE, 541—543, 550. *See* SALE UNDER JUDGMENT OR ORDER.

PARTIES, 63—92; summary of material provisions of R. S. C. 1883, as to, 63—64 (*a*)
adding: by service of notice of judgment, 74—80. *See* JUDGMENT, NOTICE OF.
adding, striking out, and substituting, 65 *et seq.*; summary of material provisions R. S. C. 1883, as to, 65 (*a*)
notice of motion or summons for adding or striking out, 66 (*b*), [140]
attendance of, on proceedings in Chambers under judgment, 465, 466
Chambers, at, 465, 466. *See* CHAMBERS, JUDGE'S.
change in: through change or transmission of interest, 84—92. *See* CARRYING ON PROCEEDINGS and SUCCESSORS.
class representative—motion paper for appointment of, 64 (*b*), 65, [134], [138]. *See* REPRESENTATIVE.
co-plaintiff refusing to proceed, making defendant of—notice of motion or summons for, [141]

PARTIES—*continued.*
executors, 63 (*a*). *See* EXECUTOR.
joinder of, 63 (*a*)
misjoinder of: does not defeat action, 63 (*a*)
non-joinder of: does not defeat action, 63 (*a*)
Partition Act, 1868, under, 64
partners, 30 (*b*)—32. *See* PARTNERS.
plaintiff, 66—67. *See* PLAINTIFF.
representative, 64, 65
dispensing with—motion paper for, [136]; summons for, [137]
estate or estates, of—appointment of—motion paper for, [134]; summons for, [135]
heir-at-law, next of kin or a class—appointment of—motion paper for, [138]; notice of motion or summons for, [139]. And *see* REPRESENTATIVE.
striking out, 65 (*a*) *et seq.*; notice of motion or summons for, [140]
third party, 68—73. *See* THIRD PARTY.

PARTITION ACTION, 645—650
Chambers, partition in—Chief Clerk's certificate as to the result of, 645 (*c*), [1508]
commissioners, partition by, 645 (*b*); *præcipe* for commission, [1507]
Partition Acts, 1868, 1876, proceedings under, 647 (*c*)—650
advertisement of intended distribution of proceeds of sale where service dispensed with, [1514]
advertisement pursuant to order dispensing with service of judgment, [1511]; Chief Clerk's certificate of the result of, and of parties interested, [1512]
advertisements, for, in, and to dispense with service of notice of judgment—notice of motion or summons for, [1510]
certificate of result of an advertisement and of parties interested, [1512]
Chambers, in—Chief Clerk's certificate of the result of inquiry as to persons interested, [1509]
dispensing with service of notice of judgment and for advertisements, application for, [1510]; advertisement pursuant to order dispensing with service, [1511]
sale—summons for order for, [1513]

PARTNERS, 30—32; summary of material provisions of R. S. C. 1883, as to, 30 (*a*)
actions against and by, 31 *et seq.*; in firm's name, 31 (*b*)
actions between, proceedings in, 672—674. *See* partnership actions, *infra.*
appearance by, 32 (*g*)
execution against, 32 (*g*)
firm, right to sue in name of, 32 (*g*)
names of—demand for, 31 (*c*), [49], [452]; reply, [50]
defendants, of—summons for, [437]
plaintiff firm, of, when cause of action accrued: on oath—summons for, 31 (*d*), [53], [453]
dismissal of action for non-delivery of—notice of motion or summons for, [54]
stay of proceedings until furnished—notice of motion or summons for, [51]; affidavit in support, [52]
partnership actions, proceedings in, 672—674
accounts: investigation of—accountant's affidavit of, [1569]; Chief Clerk's certificate of, [1570]

References to the Forms are printed thus [479].

PARTNERS—*continued.*
arbitration—agreement for—staying action where parties have entered into—notice of motion or summons for, [1568]
writ of summons in—indorsement on, [1567]
writ of summons against: service of, 32 (*g*)

PASSING JUDGMENT, 355 (*b*)—357
registrar's appointment for, [899]
And *see* JUDGMENT, ENTRY OF.

PATENT—actions and proceedings relating to, 665 (*u*)—669
appeal to law officer from decision of comptroller—notice of, [1547]
expunging entry in register of proprietors—notice of motion for, [1546]
infringement—action for, 665 (*u*)
certificate of judge that validity of letters patent came in question on the trial of a question of infringement, [1557]
discovery of names and addresses of customers—summons for, [1556]
injunction—indorsement of claim for, on writ, [1548]
injunction—notice of motion for, [1554], [1621]
inspection of process—notice of motion or summons for, [1553]
issues: trial of—notice of motion or summons for, [1555]
objections to the patent—particulars of, 667 (*a*), [1550]
further and better particulars—notice of motion or summons for, [1551]
leave to amend—notice of motion or summons for, [1552]
particulars of breaches, 666 (*z*), [1549]
further and better particulars of breaches—notice of motion or summons for, [1551]
leave to amend—notice of motion or summons for, [1552]
writ of summons in—indorsement on, [1548]

PAUPER, 33—36; summary of material provisions of R. S. C. 1883, as to, 33 (*a*)
action: leave to prosecute as, [56], [57]; petition of course for, [57]; motion paper for, [60]; certificate of counsel thereon, [58]; affidavit in support, [59]; affidavit by plaintiff's solicitor verifying statements in case, 35 (*g*), [59 a]
appeal to the Court of Appeal as: leave to—motion paper for, 35 (*i*), [61]. *See* APPEAL TO THE COURT OF APPEAL.
House of Lords, to, [1481], [1482], [1483]. *See* APPEAL TO HOUSE OF LORDS.
defending as: leave for—petition of course for, 35 (*k*), [62]; affidavit in support, [63]
dispaupering—notice of motion for, [64]
leave to proceed as: order for, discharge of—notice of motion for, [64]
maintenance: for payment of, out of a fund in Court under the Pauper Lunatic Acts—summons for, 599 (*u*), [1409]

PAY OFFICE, THE, 740 (*b*)—742
accounts: transcript of—request for, [1724]
certificate of dealing with money or securities in Court, request for, [1722]
certificate of funds in Court—request for, 741 (*c*), [1723]
transcript of accounts—request for, [1724]
And *see* CERTIFICATE OF PAYMASTER—PAYMENT INTO COURT, PAYMENT OUT OF COURT, FUND IN COURT, CARRYING OVER.

PAYEE, life of, proof of, 764—765. *See* PAYMENT OUT OF COURT.
request by, to pay money to his attorney, [1770]. And *see* ATTORNEY.

PAYMENT, TRANSFER AND DELIVERY OF MONEY AND SECURITIES INTO COURT, 740 (*a*)—760; summary of material provisions of S. C. Funds Rules, 1884, as to, 742—744 (*i*)
acceptance of, of sum paid in—notice of, 183 (*m*), [445]
admission in account left at Chambers: on—affidavit in support of application for, [1740]
Bank: by lodging money at, in urgent case—application for, [1725]
certificate of receipt by, [1728]
box, deposit in Court of a—notice of motion or summons for, [1738]
carrying over money and securities in Court, 757—760; summary of material provisions of S. C. Funds Rules, 1884, as to, 757—758 (*i*)
certificate of—request for, [1758]
securities, money on deposit, cash, dividends and interest—notice of motion or summons for, [1754]
securities of a given value—notice of motion or summons for, [1757]
specific amounts of securities and proportionate parts of dividends—notice of motion or summons for, [1755]
specific amounts of securities, parts of a larger sum—notice of motion or summons for, [1756]
cash, lodgment of, in Court and transfer of securities with Pay Office Schedule, [1739]
certificate of receipt by Bank, [1728]
damages, in respect of, where inquiry directed as to amount—summons for, [839]
deposit: by,
notice of, [1745]
notice of motion or summons for, of effects in a box, [1738]; of Exchequer Bills, [1734]; of other securities, [1735]; of securities passing by deed, [1736]
deposit, placing money on, and investing in Court, 753—757; summary of material provisions of S. C. Funds Rules, 1884, as to, 753—755 (*v*)
placing money on—request for, [1746]
request not to place money on, [1747]; withdrawal of, [1748]
withdrawal of money from deposit—request for, [1749]
withdrawal of request not to place money on deposit, and request to place same on deposit, [1748]
deposits on sale, of—summons to compel, [1323]
direction by Paymaster for lodgment, [1727]
for lodgment or transfer of securities, [1731]
direction to bank to receive—request for, [1726]
dividends, of: amount of—affidavit of, [1742]; statutory declaration, [1743]; declarat thereto, [1744]
Exchequer bills: deposit of—notice of motion or summons for, [1734]
interest, of: amount of—affidavit of, [1742]
statutory declaration, [1743]; declarat thereto, [1744]. And *see* INTEREST.
investment of money in Court, 756 (*b*)—757; summary of material provisions of S. C. Funds Rules, 1884, as to, 753—755 (*v*)
certificate of investment—request for, [1752]
dividends—discontinuing investment of—request for, [1753]
investment in stock of cash or money on deposit—notice of motion or summons for, [1750]; the like for investment in railway stock, [1751]
order for, when requisite, 756 (*b*)
Lands Clauses Consolidation Acts, under, 912. *See* LANDS CLAUSES ACTS.
Legacy Duty Act, under, 934—938. *See* LEGACY DUTY ACT.
lodging money at bank, by—application for, [1725]
lodgment—Paymaster's directions for, [1727]

PAYMENT, TRANSFER AND DELIVERY OF MONEY AND SECURITIES INTO COURT—*continued.*
lodgment of cash and transfer of securities into Court, with Pay Office Schedule—summons for, [1739]
lodgment of securities—request for, [1730]
Paymaster's direction for, [1731]
notice of, [1745]
notice of motion, or summons for (with interest), [1729]
order for, affidavit in support of application for—where founded on an admission or on an account, [1740]
Parliamentary Deposits Act, under, 898—911. *See* PARLIAMENTARY DEPOSITS.
purchase-money on sale under judgment or order, 562—574. *See* SALE UNDER JUDGMENT OR ORDER.
receiver by, on account, 736
request for directions for lodgment of cash, [1726]
sale: of deposits at. *See* deposits on sale *supra.*
satisfaction, in: by defendant, 188, 223—225; summary of material provisions of R. S. C. 1883, as to, 223—224 (*hh*)
acceptance of—notice of, [445]
judgment for costs thereon, [446]
costs—notice of motion or summons for payment of by defendant, [546]
leave—summons for, [541]
notice of, [459]
Paymaster's direction for lodgment, [457]
payment out of, 183; request for by plaintiff, [444]; of money lodged against claim with defence denying liability, [548]
receipt by bank—certificate of, [458]
request for lodgment in an action for debt or damages, [456]
securities—lodgment or transfer of—request for, [1730]
Paymaster's direction for lodgment or transfer, [1731]
transfer of, into Court and lodgment of cash with Pay Office Schedule—summons for, [1739]
what securities may be directly transferred, 747 (*d*)
Settled Land Act, under, 1003, 1004. *See* SETTLED LAND ACT.
suspense account: to—application for, [1725]
time for: extension of—summons for, [1741]
transfer of securities—request for, [1730]
Paymaster's direction for, [1731]
transfer of stock and payment of dividends into Court—notice of motion or summons for, [1733]
transfer: by,
notice of, [1745]
notice of motion or summons for, of securities passing by deed, [1737]
urgent case, in—application to bank for, [1725]

PAYMENT, TRANSFER AND DELIVERY OF MONEY AND SECURITIES OUT OF COURT, 760—783; summary of material provisions of S. C. Funds Rules, 1884, as to, 760—761 (*o*), 766—769 (*k*)
attorney: power of, to receive cheque—request for, [1807]. And *see* ATTORNEY.
box, delivery out of, deposited in Court—summons for, [1794]
carrying over securities, 757—760
cash, part of a larger sum: of—summons for, [1778]; to scheduled persons, [1783]
certificate by solicitor of residue of a fund to be dealt with by Paymaster, [1804]
creditors—notice to, that cheques may be received, [1808]
creditors and legatees'—consent to, to solicitor, of sums under £10, [1779]

References to the Forms are printed thus [479].

PAYMENT, TRANSFER AND DELIVERY OF MONEY AND SECURITIES OUT OF COURT—*continued.*
declaration by the person entitled to payment of dividends, [1776]
solicitor, by, on behalf of person entitled to payment of dividends, [1775]
deposit: of money on—summons for, [1780]
dividends, attorney, power of, to receive—request for, [1769]
affidavit of life of payee, [1773]
certificate of life of payee, [1771]; the like where he is abroad, [1772]
declaration by solicitor on behalf of payee, [1775]
declaration by the person entitled to payment, [1776]
income tax, deduction of, 761 (*o*)
payment to attorney—request for, by payee, [1770]
statutory declaration as to life of payee, [1774]
carrying over, 757 (*j*)—760. *See* FUND IN COURT, CARRYING OVER.
charity, to trustees of—summons for, [1764]
corporation to—summons for, [1765]
officer of corporation aggregate, to,—summons for, [1766]
investment of—discontinuing—request for, [1753]
life of payee—affidavit of, [1773]
certificate of, [1771]; the like where payee abroad, [1772]
declaration by payee, [1776]
declaration by solicitor of payee, [1775]
statutory declaration of, [1774]
married woman, to, for separate use—summons for, 762 (*r*) [1761]
persons named in schedule for their lives, to,—summons for, [1767]
post—periodical remittance of, by—request for, [1777]
quarterly payments out of—summons for, [1768]
tenant for life, to—summons for, [1759]
trustees of a settlement or will, to—summons for, [1763]
two persons or survivor, to—summons for, [1762]
husband and wife, to, 780; affidavit of no settlement, [1801]; the like where there is a settlement or agreement, but not affecting the fund, [1802]
interest—affidavit of subsequent, [1809]; statutory delaration in like case, [1810]
interest: of, corporation, to—summons for, [1765]
officer of a corporation aggregate, to—summons for, [1766]
married woman, to—summons for, [1761]
tenant for life, to—summons for, [1760]
trustees of a charity, to—summons for, [1764]
trustees of a settlement or will, to—summons for, [1763]
two persons and survivor, to—summons for, [1762]
Lands Clauses Consolidation Act, under, 915. *See* LANDS CLAUSES ACTS.
legacy or succession duty: transfer of, to account of Receiver-General of Inland Revenue—summons for, [1782]
married woman: examination of, as to, [1797]; certificate of, [1798]
affidavit verifying signatures, [1799]
appointment of commissioners to take—summons for, [1794]
identity of—memorandum of, [1800]
settlement—affidavit by husband and wife of none, [1801]
where settlement or agreement, but not affecting the fund, [1802]
married woman, to, who has married since date of order for payment, 762 (*r*)
notice to creditors that cheques may be received, [1808]
part of a larger sum—summons for, [1778]; to scheduled persons, [1783]
Pay Office schedule—summons for sale of securities and payment of cash, with, [1786]

References to the Forms are printed thus [479].

PAYMENT, TRANSFER AND DELIVERY OF MONEY AND SECURITIES OUT OF COURT—*continued.*
personal representatives. *See* representatives *infra.*
post—remittance by, of a particular sum—request for, [1792]
power of attorney. *See* attorney *supra*, and ATTORNEY.
representatives of person: to, when deceased named in order—affidavit for, [1805]
survivor, to: when representatives named in order—affidavit for, [1806]
sale. *See* securities *infra.*
schedule, lodgment and payment combined—summons with, [1787]
scheduled persons: to—summons for, [1783], [1767]
securities: delivery out of—summons for, [1793]
sale of: of a specified amount of—request for, [1789]; summons for, and for payment thereout of legacy or succession duty and costs, and payment of the residue to applicant on coming of age, [1782]
and payment of cash with Pay Office schedule, [1786]
to raise a specified sum—request for, [1790]; summons for, [1781]
transfer—request for, [1788]; summons for, [1783], [1784], [1785]; and payment to scheduled persons, [1783]
solicitor, to of sums under £10: consent of legatees or creditors to, [1779]
stock. *See* securities *supra.*
substituted payee: to—summons for, [1795]
transfer—deed of, for transferring out of Court securities passing by deed, [1791]
transfer, by—summons for, [1783], [1784], [1785]
transfer, by, of cash to account at Bank of England—requisition from official person for, [1803]

PEDIGREE: in proof of heirship and kindred, [1167]
affidavit verifying, 470 (*w*), [1168]

PEER OF THE REALM, description of, in writ of summons, [204 f]

PERPETUATION OF TESTIMONY, ACTION FOR, 675—676; summary of material provisions of R. S. C. 1883, as to, 675 (*z*)
evidence taken in: leave to use—notice of motion for, [1572]; affidavit in support, [1573]
proceeding with: within a limited time—defendant's notice of motion for, [1571]

PERSON, PARTY ACTING IN:
appearance of—notice of, 156 (*d*), [387]
appointment of solicitor instead of—notice of, [2007]
indorsement on writ of summons issued by, [4], [333]

PERSONAL ESTATE, ACCOUNT OF. *See* ACCOUNT, 506—525.

PETITIONS OF COURSE,
amendment of writ of summons, for, [354]
amendment of clerical errors in writ, for, [352]
appearance—for leave to enter after judgment, [389], 82—94
arbitration—for attendance of witnesses on, [2127]
carry on proceedings by surviving plaintiffs or plaintiff's successors, to, [176]
allegations in—common forms of, [179]
defendant's successors, against, [178]
public officer—leave to new to, for, [182]
representatives of deceased accounting party, against, with account of his estate on non-admission of assets, [181]
consent to, 26 (*u*), [42]

PETITIONS OF COURSE—*continued.*
co-plaintiff—to strike out name of, [144]
de bene esse, to examine witness—for leave to, 313 (*h*), [785]
discharge from custody—to obtain, [1019]
on filing examination to interrogatories, [1129]
on leaving accounts, [1226]
discontinue action or strike out part of claim, to, [639]
documents deposited in Court—for production of, [1862]
for delivery out by consent, [1866]
exhibits—for leave to prove at hearing, [672]
formal parts of, 25 (*o*), [39]
guardian *ad litem* of infant defendant—to assign, in lieu of one deceased, [98]
of lunatic defendant—to assign, in lieu of one deceased, [125]
of person of unsound mind not so found defendant, to assign, [123]
of person of unsound mind defendant—to assign, where committee adversely interested, [120]
of person of unsound mind not so found as respondent to a petition or other proceeding—to assign, [128]
habeas corpus—for writ of, to bring up contemnor on his own application, [1010]
habeas corpus ad testificandum—for writ of, to compel attendance of a witness in custody, [745]
before Chief Clerk, [1112]
infant born after judgment—continuing proceedings against, for, [180]
infant coming of age—to dismiss action before judgment with costs, on, [85]
lis pendens—for entry of satisfaction of, by consent, [363]
next friend of lunatic—to appoint new, in place of one deceased, [111]
of person of unsound mind—to appoint new in place of one deceased, [112]
pauper—for leave to commence action as, [56]
to continue action as, [57]
to defend as, [62]
relator—to name new, in place of one deceased, the Attorney-General consenting, [486]
satisfaction of a judgment or order by consent—for entry of, [919]
satisfaction of a registered writ of execution—for entry of, [1047]
solicitor, and agent—to appoint, for a separate application, [2013]
solicitor, by—to be struck off the roll, [1993]
special case—to amend by consent, [1983]
stay proceedings, to, on special terms by consent, [1968]
taxation—for delivery of bill and—by party chargeable, [2022]
taxation of bill delivered by solicitor—for common order for, [2018]
by party chargeable, before action brought, [2020]
after action brought, [2021]
by third party, [2026]
taxation of bill under section 83 of Lands Clauses Act, for, [2098]
translator of depositions—for appointment of, [731]
writ of summons—to amend, [354]
to amend clerical errors in, [352]

PETITIONS: SPECIAL:
appointment of person to convey, for, [2058]
release or dispose of contingent right, to, for, [2061]
assignment of, to particular judge, 25 (*q*)
brief on hearing of—indorsement on, [1609]
charging order on fund in Court for amount of solicitor's taxed costs, for, [1997]
on property recovered or preserved by solicitor, [1999]

PETITIONS: SPECIAL—*continued.*
charity lands—for leave to sell, grant leases and exchange under 52 Geo. III. c. 101, [2034]
Confirmation of Sales Act, under—for authority to dispose of land reserving minerals, or of minerals apart from land, [2183]
Defence Acts, under—for transfer and payment of fund to absolute owner, [2171]
ecclesiastical lease—for sale of, [2167]
Fines and Recoveries Abolition Act, under—for consent of Court as protector of settlement in place of person under disability, [2163]
foot-note to, 26 (*s*), [41]
formal parts of, 25 (*q*), [40]
House of Lords, of appeal to, [1474]
amend petition—for leave to, and lodge supplemental case, [1497]
pauper—for leave to appeal as, [1481]
respondent, by—for leave to lodge case, [1492]
restore appeal and extend time for lodging cases, to, [1490]
revive appeal on death of appellant, to, [1499]
time—for extension of, to present cross-appeal, [1484]
to lodge cases and set down appeal for hearing, [1488]
withdraw appeal—for leave to, on payment of respondent's costs, [1502]
without costs by consent, [1504]
Inclosure Act, under, for application of fund, [2173]
Infants' Custody Act, under—for access and custody of infants by mother, [2219]
Investment on Real Securities in Ireland Act—for leave to invest, under, [2164]
judicial opinion, advice or direction, for, [2180]
Land Tax Redemption Act, under—for leave to cut and sell timber and for application of proceeds, [2154]
Legacy Duty Act—for transfer and payment of legacy under, [2151]
lis pendens—for entry of satisfaction of, [364]
Married Women's Property Act, 1882, under—for appointment of a trustee of a settlement policy, [2285]
Merchant Shipping Acts, under—for sale of a ship or share of ship vested by transmission in an unqualified owner, [2174]
to prohibit dealing with ship or share of ship, [2176]
Mortgage Debenture Acts—to appoint receiver, under, at instance of the owner of an overdue debenture, [2185]
National Debt Act—for re-transfer of stock and payment of dividends, under, [2208]
Parliamentary Deposits Act, under, 899 (*f*), 901 (*q*)
landowners, by—for inquiries and distribution of fund exceeding 1000*l.*, [2082]
official liquidator, by, or receiver of company for like, [2084]
Treasury solicitor, by, for like, [2083]
pauper—for leave to commence action as, [56]; to be signed by solicitor, 26 (*r*)
continue action as, to, [57]
Property and Trustees Relief Amendment Acts, under—to establish sale under power where part of purchase-money has been erroneously paid to tenant for life, [2178]
Property Law Amendment Act—appointment of nominee under, for—for surrender of existing lease and accept a new lease where reversion belongs to an infant or married woman, [2155]
approval, for, under, of conditional contract to grant lease of an infant's land, [2160]
surrender of an existing lease under, for—and grant of a new lease where reversion belongs to an infant or married woman, [2157]

PETITION: SPECIAL—*continued.*
Railway Companies Act, 1867—to appoint receiver and manager, under, [2099]
to confirm scheme, under, [2113]
reduction of capital—to confirm, [2188]
restraining order, for, [1633]
right of—formal parts of, [1582]. *See* RIGHT, PETITION OF.
satisfaction of a judgment or order—for entry of, [920]
service of—affidavit of, 18(*f*), [33], [35]
abroad, [1602]; summons for, [1603]
substituted—motion-paper for, [1601]
Settled Estates Act, 1877, under—for application of purchase-money or of money set aside out of rent, [2248]
for order authorising particular lease under, [2222]
for order vesting general powers of leasing in trustees, [2221]
for sale, [2223]
standing over or adjourned, restoration of—request for, [1606]; adjourned without day, [1605]; notice of restoration, [1607]
stay proceedings, to, on terms by consent, [1970]
titles of petitions presented under Acts of Parliament—directions of Lord Lyndhurst as to, [2031]
transfer of cause or matter from one division to another, for, [1886]
from one judge of Chancery Division to another, for, [1887]
Trustee Acts, under—appointment of new trustees, and for vesting order consequent thereon, [2065]
appointment of person to convey, under, for, [2058]
release or dispose of contingent right, under, to, for, [2061]
chose in action, for order vesting right to sue for or recover, [2064]
disposing of contingent right in infant trustee or mortgagee, or in trustee out of jurisdiction, or who cannot be found, for, [2060]
order directing officer of bank or company to transfer stock, for, [2063]
releasing lands from contingent right in infant trustee or mortgagee, or in trustee out of the jurisdiction, or who cannot be found, or in unborn person or class of persons, for, [2059]
vesting order for, under—where trustee of lands is an infant, or out of the jurisdiction, or refuses or neglects to convey, [2054]
where trustee cannot be found, or it is not known whether he is living or dead, or he has died intestate and without an heir, or he has died, and it is not known who is his heir or devisee, [2055]
where uncertain which of several trustees was the survivor, [2056]
where lands subject to contingent right in unborn person or class of persons, [2057]
to transfer stock and receive dividends, [2062]
Trustee Relief Act, under—for transfer and payment out, of fund in Court, [2052]
ward of Court—to interdict marriage of, [1392]
inquiry as to validity of marriage of, for, [1395]
marriage of—for judicial approval of, under Marriage Act, [1396]

PETITION OF RIGHT, 683—685. *See* RIGHT, PETITION OF.

PLACE OF RESIDENCE, CHANGE OF:
notice of, [5]

PLAINTIFF:
adding, striking out, or substituting: applications for, 65 *et seq.* *See* PARTIES.
co-plaintiff: striking out—motion paper for, [143]

PLAINTIFF—*continued.*
consent to be added as, [142]
person, in: issue of writ by, 2 (*p*), [4]
refusing to proceed: making him defendant—co-plaintiff's notice of motion or summons for, [141]
security for costs from, 837 (*a*) (*b*) (*c*)—844. *See* COSTS, SECURITY FOR.
striking out co-plaintiff—motion paper for, [143]; petition of course, [144]
suing on behalf of creditors—description of, in writ of summons, [2040]
where suing on behalf of debenture holders, [204 p]
where suing on behalf of shareholders, [204 q]
And *see* PARTIES.

PLEADING MATTERS ARISING PENDING ACTION, 193—195. *See* PLEADING FURTHER.

PLEADINGS, 190—257; summary of material provisions of R. S. C. 1883, as to, 190—192 (*a*)
admission in: judgment on—notice of motion or summons for, [614]. And *see* ADMISSION.
moving on, 245 (*a*)
amendment of, 196—202; summary of material provisions of R. S. C. 1883, as to, 196—197 (*j*)
abandonment of claim by: costs upon—notice of motion or summons for, [477], [478], [479]
disallowing: when made under an order—summons for, [475]
when made without an order—summons for, [474]
indorsement on amended pleading, [473]
leave for—summons for, [471]; after time expired, [476]
order for, when necessary, 197 (*k*)
pleading further after: leave for, after time expired—summons for, [476]
striking out scandalous or embarrassing matter: by—summons for, [480]
time for: extension of—summons for, [472]; after time expired, [472]
claim, 203—220. *See* CLAIM, STATEMENT OF.
claim in: abandoned by amendment, costs of—notice of motion or summons for [477], [478], [479]
counsel, signature of, 190
default of, 247—254. *See* DEFAULT.
judgment in, 249—254. *See* JUDGMENT IN DEFAULT.
defence, 220—234. *See* DEFENCE.
demurrer, 243—245. *See* DEFENCE (demurrer, proceedings in lieu of).
denial in, must be specific, 191
embarrassing matter in: striking out—summons for, [480], [539]
exclusion of part of—notice of motion or summons for, [481]
form of statement of claim, defence and counterclaim, and reply, [603]
further, 192—195; summary of material provisions of R. S. C., as to, 192 (*b*)
amendments: after, leave for, after time expired—summons for, [476]
defence, 192, [464]; leave for—summons for, [461]; affidavit in support, [462]
confession of, 194, [465]; judgment for costs thereon, [466]
time for: extension of—summons for, [463]; after time expired, [463]
reply, 195, [470]; leave for—summons for, [467]; affidavit in support, [468]
time for: extension of—summons for, [469]; after time expired, [469]
joinder of issue, 243 (*m*), [606], [607]
particulars, 201—202. *See* PARTICULARS OF CLAIM,
printed, when, 190
rejoinder, 242. *See* REJOINDER.

PLEADINGS—*continued.*
reply, 239—242. *See* REPLY.
reply: subsequent to, 242; summons for leave for, [604]
scandalous matter in, striking out—summons for, [480], [539]
time for; summary of material provisions of R. S. C. 1883, as to, 190 (*a*). And *see* the several pleadings.
amendment, for. *See* amendment, *supra.*
unnecessary matter in, striking out—summons for, [480], [539]
withdrawal of. *See* DISCONTINUANCE.
And *see* DEFENCE—CLAIM—REPLY—COUNTERCLAIM.

POLICY:
settlement of, under Married Women's Property Act, 1882—appointment of a trustee of, 1010 (*v*), [2285]

POLLUTION:
of river by Local Board: injunction to restrain—notice of motion for, [1619]

POSSESSION, WRIT OF, 423 (*a*)—426
affidavit in support, [1062]
fieri facias, writ of, when combined with, 425, 426
form of, [1060]; *fieri facias*, writ of, when combined with, [1064]
indorsements on, of name and address of party issuing, and of address of defendant, [936], [937], [939]; *fieri facias*, writ of, when combined with, [936], [937], [939]
præcipe for, [1059]; when combined with writ of *fieri facias*, [1063]
sheriff—direction to, [1066]

POST:
affidavit of service of notice of judgment by, [167]
of writ of summons by, 168 (*k*), [414]
company, on, service by—affidavit of, 168, [414]
dividends, periodical remittance of, by—request for, [1777]
judgment, notice of, enclosed in letter sent by, [163]; acknowledgment of receipt, [164]; affidavit of service of notice of judgment by post, [167]
judgment, service of notice of, by—summons for directions as to, [160]
notice by, to creditors entered in list on reduction of capital by company, [2195]
notice by, to creditor to prove his claim in administration—affidavit of, [1177]
remittance by, of a particular sum, request for, 743 (*i*), [1792]
writ of summons, service of, by, 141
company, on, service of—affidavit of, 168, [414]

POWER OF ATTORNEY. *See* ATTORNEY.

PRÆCIPE:
attachment—for writ of, [995]
boundaries—for commission to settle, [1515]
certiorari—for writ of, [1909]
commission to issue for examination of witnesses, for, [718]
delivery—for writ of, [1067]
distringas nuper vicecomitem—for writ of, [959]
elegit—for writ of, 386 (*a*), [971]
residue, for, of debt, where part has been levied under a *fi. fa.*, [971], [974]
entering action for trial, on, [821]

PRÆCIPE—continued.
fieri facias—for writ of, [934]
costs only, for, [934]
money, interest and costs, for, [935]
renewed writ of, for, [1074]
residue of debt, after levy of part, for, [953]
fieri facias de bonis ecclesiasticis—for writ of, [962]
habeas corpus ad testificandum, to compel attendance of a witness in custody—for writ of, [747]
before Chief Clerk, [1114]
habeas corpus—for writ of, by contemnor, [1011]
infant defendant coming of age—for *subpœna* to show cause against judgment, [101]
Mayor's Court—of judgment or order obtained in, [1927]
motion for hearing—on setting down, [1453]
motion for judgment—on setting down, [801]
ne exeat regno—for writ of, [1660]
notice of judgment—for entry of memorandum of service of, [169]
originating summons—for amendment of, [1083]. *See* SUMMONS, ORIGINATING.
partition—for commission of, [1507]
petition of right—for appearance to, [1585]
possession—for writ of, [1059]
possession and *fieri facias* combined—for writ of, [1063]
prohibition—for writ of, [1650]
Railway Companies Act, 1867, scheme under—for appearance by opponent to, [2116]
sequestrari facias de bonis ecclesiasticis—for writ of, [967]
on judgment directing an act, other than the payment of money, to be done, [967], [1033]
sequestration—for writ of, [1027]
solicitor—for *subpœna* to name a, [2014]
subpœna duces tecum, for, [750]
attendance in England of witness in Scotland or Ireland, to compel, for, [733], [758]
attendance before sheriff, upon execution of a writ of *elegit*, for, [750], [978]
subpœna ad testificandum—to seal writ of, [733]
appeal—on hearing of, [733], [1467]
attendance in England of witness in Scotland or Ireland—to compel, [733], [740]
attendance before sheriff—upon execution of a writ of *elegit*, for, [733], [977]
renditioni exponas—for writ of, [956]
writ of inquiry, for, [880]
writ of summons, amended, for, [357]

PRESERVATION OF PROPERTY, INTERIM, 784—787; summary of material provisions of R. S. C. 1883, as to, 784 (*a*)
preservation or custody of property—notice of motion or summons for, [1811]
sale of property—notice of motion or summons for, [1812]

PRINTING:
affidavits, 4 (*a*)
pleadings, 190 (*a*)
special case, 853 (*a*)

References to the Forms are printed thus [479].

PRIVILEGE:
arrest, against: discharge from custody because of—notice of motion for, [1017]
discovery: against, by interrogatories, 794
documents: from production of, 802
sealing up parts, because of, 805 (*w*); leave for—summons for, [1848]; affidavit as to, [1849]
And *see* DOCUMENTS.

PROBATE:
allegation of—common form of, in petition to carry on proceedings, [179]
notice of intention to adduce, as proof of a testamentary disposition of real estate, [663]
notice to produce, [1131]

PROCEEDINGS:
attending, 465—466; summary of material provisions of R. S. C. 1883, as to, 465 (*l*)

PRODUCTION:
cestui que vie: of, 932 (*g*)—934. *See* CESTUI QUE VIE, ACT FOR PRODUCTION OF.
deponent: of, for cross-examination—notice for, [692]; at Chambers—summons for, [1104]
service of: extension of time for—summons for, [691]; after time expired, [691]
documents: of, 272. *See* DOCUMENTS.

PROHIBITION, WRIT OF, 707—708
County Court, to—summons for, [1654]
discharge of—notice of motion for, [1653]
form of, [1651]
indorsement on, [3], [4], [1652]
præcipe for, [1650]

PRO INTERESSE SUO EXAMINATION: notice of motion or summons for, 730 (*e*), [1043], [1698]

PROOF, 260—316. *See* EVIDENCE.

PROPERTY LAW AMENDMENT ACT, 940—943
conditional contract to grant lease of infant's lands, [1360], [2159]
petition to carry into effect, [2160]; summons for, [2161]; affidavit in support, [1260], [2162]
surrender of lease and acceptance of new lease on behalf of infant or married woman: nominee for—petition for, [2155]; summons for the like in case of an infant ward of Court, [2156]
and grant of a new lease: where reversion belongs to infant or married woman—petition for, [2157]; summons in case of an infant, [2158]

PROPERTY TAX, 545 (*w*), 563 (*e*). *See* INCOME TAX.

References to the Forms are printed thus [479].

PROSECUTION OF ACTION, 851 (*y*)
authority to solicitor for, 863—864. *See* SOLICITOR.
bankrupt plaintiff—notice of motion that trustee may proceed with action, or in default for dismissal, [1977]
successors of defendant, against—notice of motion for, [1976]; plaintiff's successors, by, [1975]
want of: dismissal of action for—notice of motion for, [615]
And *see* CARRYING ON PROCEEDINGS.

PROTECTION OF ESTATE:
on application to Parliament: leave for—summons for, by trustee or executor, [1255]

PROTECTOR OF SETTLEMENT:
consent of Court as, instead of person under disability—petition for, [2163]

PUBLIC OFFICER:
substitution of new—petition of course for, [182]

PURCHASE-MONEY, 562 *et seq.* *See* SALE UNDER JUDGMENT OR ORDER.

PURCHASE OF AN ESTATE, 491 (*t*)—506. *See* INVESTMENT IN REAL ESTATE.

PURCHASER, 539—579. *See* SALE UNDER JUDGMENT OR ORDER.

QUAKER:
affirmation by, [16]; affirmat to, [18]; foot-note, [17]
Court: before, [773]
examiner: before, [774]
ex-Quaker—affirmation by, [19]; before Court, [775]
jury, on a, [849]
And *see* OATH—AFFIRMATION.

QUI TAM ACTION—indorsement on writ of summons in, [339]

RAILWAY COMPANIES' ACT 1867: scheme under, 918—925
advertisement of, 921 (*t*), 922 (*u*), [2108]
advertisement of petition for, [2115]
certificate that copy of written scheme is correct, [2105]
certificate verifying printed copy, [2106]
confirmation of—petition for, [2113]; fixing day for hearing of—summons for, [2114]
and inrolment of—notice of, [2120]
order for, [2118]
copies of—demand of, [2109]
solicitor's certificate verifying prints of, [2110]
copy of—solicitor's certificate verifying print of, for filing, [2106]
execution: determination of question respecting—summons, for, [2100]
execution notwithstanding: leave for—notice of motion or summons for, [2112]

RAILWAY COMPANIES ACT 1867: scheme under—*continued.*
filing of, 919 (*l*); certificate of, [2107]
formal parts of, 919 (*l*), [2101]; indorsement, [2104]
inability of company to meet engagements—declaration of, 920 (*mm*), [2102]: affidavit of truth of, [2103]
indorsement on, [2104]
opponent of: appearance by—notice of, [2117]; *præcipe* for, [2116]
order confirming, [2118]
appeal from: leave for—notice of motion for, [1451], [2119]
notice of, [2120]
petition—advertisement of, [2115]
petition: hearing of—summons for a day to be appointed for, [2114]
receiver and manager—petition for appointment of, 918 (*f*), [2099]
stay of proceedings after—notice of motion or summons for, [2111]

RAILWAYS CONSTRUCTION FACILITIES ACT, 918

RAISING MONEY BY SALE OR MORTGAGE, 531 (*h*)—532
amount to be raised—statement of, [1266]
costs of, 531 (*i*)
fee on, 531 (*h*)
mortgage—recitals of order and payment in, [1268]
payment into Court of advance by mortgagee, leave for—summons for, [1267]
statement of amount to be raised, [1266]

REAL ESTATE:
administration of, on originating summons, 455—461. *See* ADMINISTRATION OF ESTATES AND TRUSTS ON ORIGINATING SUMMONS.
incumbrances on—affidavit as to, by several trustees, [1231 (6)]; by sole trustee, [1236]. *See* INCUMBRANCES.
investment in, 491—506. *See* INVESTMENT IN REAL ESTATE.
particulars of, [1231], schedule 3
affidavit by joint trustees verifying, [1231 (8)]
by sole trustee, [1236]
rents and profits of, 513. *See* ACCOUNT.
sale of, 539—579. *See* SALE UNDER JUDGMENT OR ORDER.

RECEIVER, OFFICIAL:
description of, in writ of summons, [204 (s)]

RECEIVER, 717—739; summary of material provisions of R. S. C. 1883, as to, 717—718 (*a*)
account of, 732 (*o*), (*p*)—737, [1706]
affidavit verifying, 732 (*q*), (*r*), [1705]
allowance of—Chief Clerk's certificate of, 735 (*y*), [1709]
leaving: extension of time for—summons for, [1710]
short order for—summons for, [1711]
passing, 719 (*g*): leave for surety to attend—summons for, [1721]
practice as to verifying, 732 (*p*)
representatives of: by, leave for—summons for, [1714]
proceeding on—notice of appointment for, [1708]; summons for, [1707]
time to leave: extension of—summons for, [1710]
action: by, leave to bring—summons for, [1248]; to defend, [1249]; to compromise, [1253]

RECEIVER—*continued.*
appointment of, 718—730
claim for, [1675]
equitable execution, by way of, 359 (*a*), 362 (*b*), 386 (*a*), 415 (*e*), 719 (*f*), (*h*), (*i*), 720 (*j*), [1678]
interim—motion paper for, [1676]
minute of order for, where appointed in Chambers, [1692]
Mortgage Debenture Acts: under. *See* Mortgage Debenture Acts, *infra.*
motion paper by judgment creditor for, by way of equitable execution, [1678]
note to be sent to Chief Clerk where receiver appointed, but order suspended till security given, [1689]
notice of motion or summons for, [1677]
order for: proceeding on—summons for, [1679]
party to propose himself: leave for—summons for, [1680]
plaintiff, of, 719 (*i*)
Railway Companies' Act: under. *See* Railway Companies' Act, *infra.*
recognizance on, [1683]; with a company as sureties, [1684]; before order drawn up, [1690]. And *see* recognizance, *infra.*
security given: after—summons for, [1686]
security on, 719 (*f*), 722 (*m*): settlement of—summons for, [1687]
certificate of, having been given, 727 (*w*), [1688]
note of, having been given, by Chief Clerk, [1691]
attornment to, 729 (*b*), [1694]; notice for, [1693]
and payment of rent—notice of motion or summons for, [1695]; of occupation rent, [1696]; affidavit in support, [1697]
bond by, [1683], [1690]; and a society or company as his sureties, 723 (*r*), [1684]
books of account at Chambers: entry in, abolished, 735 (*y*)
business: leave for carrying on—summons for, [1251]
claim for—indorsement of, on writ of summons, [1675]
compromise of action or claim by: leave for—summons for, [1253]
debts: leave to pay—summons for, [1252]
default by, 733 (*t*)
discharge of, 738 (*e*); and vacating recognizance—notice of motion or summons for, [1717]
vacating recognizance on—summons for, [1718]
drainage works by: leave for—summons for, [1254]
enfranchisement: approval of agreements for—summons for, [1256]
equitable execution—motion paper by judgment creditor for appointment of, by way of, 359 (*a*), 362 (*b*), 386 (*a*), 415 (*e*), 719 (*f*), (*h*), (*i*), 720 (*j*), [1678]
examination *pro interesse suo*, in case of—notice of motion or summons for, [1698]
fitness of proposed—affidavit of, [1682]
lease, 732 (*m*); approval of agreement to grant—summons for, [1259]
renewal of—summons for, [1258]
management by, 732 (*l*), (*m*), (*n*), [1704]
Mortgage Debenture Acts: appointment of, under—petition for, [2185]; summons for, [2186]
outstanding personal estate: leave to convert—summons for, by, [1250]
payment in by, on account: leave for—summons for, [1712]
balance: summons to compel, [1713]
payment to: of moneys received by defendant—notice of motion or summons for, [1702]
powers of, 732. *See* management, *infra.*
property over which receivership to extend—affidavit as to, [1681]
Railway Companies' Act, 1867: appointment of receiver and manager under—petition for, [2099]

RECEIVER—*continued.*
recognizance by, and by sureties, [1683]; at Chambers after approval but before appointment, [1690]; with a company as sureties, [1684]
leave to sue upon—summons for, [1715]
stay of action on—surety's notice of motion or summons for, [1716]
rent: payment of arrears of, to—notice of motion or summons for, [1699]
arrears of, action for: leave for—summons for, [1701]
distress for, by: leave for—summons for, [1700]
repairs by, 732 (*n*); leave for—summons for, [1254]
security by, 719 (*f*); reduction of amount of, given by bond of Guarantee Society, 739 (*k*); summons for, [1720]
certificate of, having been given, 727 (*w*), [1688]
note of having been given, by Chief Clerk, [1691]
settlement of—summons for, [1687]
sureties of: solvency of—affidavit of, [1685]
recognizance by, [1683]; when a company, [1684]
surety of: death or bankruptcy of, new security on—summons for, [1719]
timber: leave to cut and sell—summons for, [1703]
writ of summons for, [1675]

RECOGNIZANCE:
deposit on sale, as security for, [1302]. *See* SALE UNDER JUDGMENT OR ORDER.
enrolment of—search for—affidavit of, 498, [1207]
guardian of infant's estate, [1377]. *See* GUARDIAN.
receiver, by, [1683]. *See* RECEIVER.

RECORD:
attendance of officer with—memorandum bespeaking, 271 (*f*), [662]
copy of—certificate verifying, [658]
production of: order for—motion paper for, [661]
reference to, 1 (*a*), [1]
reference to, and title, 1 (*c*), [1 a]

RECOVERY OF LAND. *See* LAND.

REDEMPTION:
action for—proceedings in, 664 (*s*)—665
action for: debt due to mortgagee under a judgment in foreclosure—affidavit verifying, [1529], [1531]
Chief Clerk's certificate as to, [1530], [1533]
dismissal of action for, in default of payment—motion paper for, [1544]; affidavit in support by mortgagee, [1539], [1545]; by mortgagee's attorney, [1540], [1545]
proceedings in, after writ, [1534]—[1541], [1543]
writ of summons in—indorsement on, [209], [1542]
And *see* FORECLOSURE—MORTGAGE.

REDUCTION OF CAPITAL, 959—970. *See* COMPANIES ACTS.

REFEREE, 340—346; summary of material provisions of R. S. C. 1883, as to, 340 (*a*)
accounts before—notice of motion or summons for, [859]
appointment to proceed with reference before official referee, [862]; the like before special referee, [863]
certificate by. *See* report, *infra.*

REFEREE—*continued.*
judgment after trial before, [873]; of question of account, [874]
mode of proceeding before, 343 (*i*)
name of, in rotation—note of, [861]
official: fees to, 343 (*i*)
rotation of, note of, [861]
reconsideration of report by—notice of motion for, [867], [869]
reference to, for trial under Jud. Act, 1873, s. 57—notice of motion or summons for, [858]
reference to, of the action for trial, 342 (*g*), [860]
reference to, to report under Jud. Act, 1873, s. 56, 340—344; notice of motion or summons for, [856], [857]
report by, 344, [864], [865], [866]
adoption of, 345, [868]
time for, 345 (*o*)
filing in Central Office, 344 (*k*)
special case: setting down as—memorandum of, [871]; notice of, [872]; motion paper for, [870]
varying, or remitting—notice of motion for, [867]; the like where no further consideration is adjourned [869]
time for, 345
special—reference to—notice of motion or summons for, [856]
mode of conducting a reference before, 343 (*j*)
trial before—notice of motion or summons for, [858]
subpœna *ad testificandum* at, [734]. And *see* EXAMINER, ARBITRATION.

REFERENCE TO THE RECORD, 1, [1], [1 (a)]

REFUSAL:
admit documents or facts: to—affidavit of, 264 (*d*), [655]
appeal from—time for, 622, 623 (*e*)
convey: to, by trustee, petition for vesting order, on, [2054]
documents: to produce—examiner's certificate of, [765]
proceed: to, by co-plaintiff—summons for conduct of cause by active plaintiff, [1155]
witness, by: to be sworn—examiner's certificate of, [764]

REGISTRAR: proceedings in the office of the Chancery Registrars, 356 (*b*); summary of material provisions of R. S. C. 1883, as to, 356—357 (*b*)
appointment by: to settle draft judgment, [899]
counsel's brief—production within a limited time—notice of motion for, [900]
engrossment of judgment or order—return of—notice of motion for, [902]
entry of judgment *nunc pro tunc*—memorandum by, for, [903]
minutes of judgment by—notice of motion to vary, [901]

REGISTRAR OF JUDGMENTS AND MARRIED WOMEN'S ACKNOWLEDGMENTS:
department of—searches in, 496 (*f*)

REGISTRATION:
judgments, Middlesex or Yorkshire: in—certificate as to [923]; affidavit verifying signature, [924]; memorial for, [922]
lis pendens: of, 136—139. *See* LIS PENDENS.

REGISTRATION—*continued.*
writs of execution: of, 413, 414 (*b*)
memorandum for, [1045]
satisfaction of—acknowledgment of, 414 (*c*), [1046]
entry of—petition of course for, [1047]; notice of motion or summons for, [1048]

REGISTRY, DISTRICT, 187—188. *See* DISTRICT REGISTRY.

REJOINDER:
leave for—summons for, [604]
time for: extension of—summons for, [487], [605]; after time expired, [487], [605]

RELATOR:
authority by, 28 (*c*), [45]; by new relator, [48 a]
certificate by counsel that writ and statement of claim, &c., proper, 29 (*d*), [47]
certificate by solicitor as to sufficiency of relator, 29 (*d*), [48]
petition of course for new, [48 b]
regulations as to proceedings at instance of, [46]
And *see* ATTORNEY-GENERAL.

RELIEF OF TRUSTEES, 884—889. *See* TRUSTEE RELIEF ACT.

REMOVAL OF CAUSE:
County Court: from, 826—831. *See* COUNTY COURT.
County Court: to, 824—826. *See* COUNTY COURT.
District Registry: from and to, 823, 824. *See* DISTRICT REGISTRY.
Mayor's Court: from, 831—834. *See* MAYOR'S COURT.
other inferior Courts: from, 834—836.
judgment or order in—notice of motion or summons for removal into High Court, [1929]; affidavit in support, [1930]
certiorari for execution—notice of motion or summons for, [1931]; affidavit in support, [1932]
form of writ, [1909], [1933]; *præcipe* for, [1910], [1933]
indorsement on, [1911], [1933]
return to, [1934]
And *see* TRANSFER OF CAUSE.

RENEWAL:
lease: of, leave for—trustee's summons for, [1258]. And *see* ADMINISTRATION ACTION.
writs of execution: of, 428, 429
leave for—summons for, [1073]
notice of: to sheriff, [1075]
præcipe for, [1074]
writ of summons: of, 131. *See* WRIT OF SUMMONS.

RENT:
account of, 513. *See* ACCOUNT.
arrears of:
action for, by receiver—leave for—summons for, [1701]
distress for, by receiver—leave for—summons for, [1700]
judgment for, in default of appearance, [428]; of defence, [625]
payment to receiver—notice of motion or summons for, [1699]

References to the Forms are printed thus [479].

RENT—*continued.*
injunction to restrain distress for—notice of motion for, [1618]
mortgagee receiving, after certificate—notice of motion or summons to continue account, [1536]
occupation—receiver's notice of motion to fix, [1696]

RENTS AND PROFITS:
account of, 513, [1231-7]—[1233]. *See* ACCOUNT.
Chief Clerk's certificate as to, 604, [1410-8]

REPAIRS:
leave for: trustee's or receiver's summons for, [1254], [1704]

REPLY, 239—242: summary of material provisions of R. S. C. 1883, as to, 239-a
amendment of—summons for leave, [599]
delivery of—summons for, [600]
embarrassing matter in, striking out—summons for, [601]
form of, general, 239-b, [595]
particulars, in action on three letters raised of time given to the principal and counterclaim for non-delivery of goods, [602]
statement of claim, defence and counterclaim, and reply, [603]
further: leave for—summons for, [598]
joinder of issue: by, 239
scandalous matter in, striking out—summons for, [601]
time for, 240, 239-c: extension of—summons for, [597]: after time expired, [597]
unnecessary matter in, striking out—summons for, [601]

REPLY, AFFIDAVITS IN:
filing: extension of time for—summons for, [684]: after time expired, [684]
list of, [687]

REPORT:
referee: by, 344. *See* REFEREE.

REPRESENTATIVE, 64-b—65
class: of—motion paper for, [135]: notice of motion or summons for, [139]
deceased, of—carrying on proceedings against. *See* CARRYING ON PROCEEDINGS.
dispensing with—motion paper for, [136]; summons, [137]
estate: of: appointment of, 64-b: motion paper for, [134]: summons for, [135]
heir at law, next of kin or a class: of—motion paper for, 64, [138]; notice of motion for, [139]
payment out to, of person named in order, 782-b: affidavit for, [1805]
to survivors or survivor of, where representatives named in order, [1806]
receiver: of, leave to pass final account—summons for, [1714]

REPRESENTATIVE CHARACTER, 103—107. *See* WRIT OF SUMMONS, indorsement.

REQUEST, LETTERS OF:
examination by, 295—299

References to the Forms are printed thus [479].

REQUISITIONS ON TITLE:
condition of sale as to, [1292 (6)]. *See* SALE UNDER JUDGMENT OR ORDER.

RESALE, 573, 574
condition as to: on sale under judgment or order, [1292 (10)]. *See* SALE UNDER JUDGMENT OR ORDER.

RESIDENCE:
change of: notice of, [5]

RESPONDENT:
appeal, on. *See* APPEAL TO THE COURT OF APPEAL, 620—629.
appeal, on, to the House of Lords. *See* APPEAL TO THE HOUSE OF LORDS, 630—644.
petition, to. *See* PETITION, 689—691.

RESTRAINING TRANSFER OF STOCK OR SHARES:
notice, by, under R. S. C. 1883, Order XLVI., 699—702; summary of material provisions of R. S. C. 1883, as to, 699 (*p*)
address—alteration—memorandum of, [1637]
affidavit as to stock, [1635]
cesser of operation of notice—notice of motion or summons for, [1639]
notice as to stock, [1636]; withdrawal of—request for, [1638]
notice by Bank of England of request to transfer stock, [1641]
transfer of stock—request for, [1640]
withdrawal of notice—request for, [1638]
order, by, under 5 Vict. c. 5, s. 4—motion paper for, [1632]; petition for the like, [1633]
discharge of—notice of motion for, [1634]

RETURN. *See* the various writs.

REVIEW:
of taxation—summons for, [1444]. *See* TAXATION.

REVIEW, ACTION OF, 682
leave to bring—notice of motion for, [1580]
staying an action of review commenced without leave—notice of motion for, [1581]

REVIVOR, 84—92. *See* CARRYING ON PROCEEDINGS—SUCCESSORS.

RIGHT, PETITION OF, 683—685
answer and plea of the Attorney-General—formal parts of, [1588]
appearance to—*præcipe* for, [1585]
confessed: taking as—notice of motion for, [1586]
fees on, 683 (*b*)
formal parts of, [1582]
formal parts of answer and plea of Attorney-General, [1588]
indorsement on copy of, for service on Solicitor to Treasury, [1583]
on other parties, [1584]
judgment on: purport of—certificate of, [1589]
præcipe for appearance, [1585]
time to plead or answer—summons for, [1587]

References to the Forms are printed thus [479].

RIVER:
pollution of: injunction to restrain—notice of motion for, [1619]

ROLL, STRIKING OFF THE, 860 (*f*), (*g*), (*h*). *See* SOLICITOR.

ROMILLY'S ACT, 876—878. *See* CHARITY.

ROOT OF TITLE:
condition of sale as to, [1293 (2)]. *See* SALE UNDER JUDGMENT OR ORDER.

RURAL SANITARY AUTHORITY:
description of, in writ of summons, [204 u]

SALE:
Court: by, 539—579. *See* SALE UNDER JUDGMENT OR ORDER.
elegit: of lands extended under—petition for, [1049]
minerals, with reservation of, or of minerals apart from land, under Confirmation of Sales Act—petition for, [2183]
Partition Acts, 1868, 1876, under, 650 (*i*). *See* PARTITION ACTION.
securities: of, 775. *See* PAYMENT OUT OF COURT.
settled estates: of. *See* SETTLED LAND ACTS, 999—1010; and SETTLED ESTATES ACT, 981—994.
And *see* CONFIRMATION OF SALES ACT.

SALE UNDER JUDGMENT OR ORDER, 539—579; summary of material provisions of R. S. C. 1883, as to, 539—540 (*x*)
abstract of title—condition as to delivery of, [1292 (6)]
delivery of—summons for, 562 (*cc*), [1328]
acknowledgment by purchaser of receipt of conveyance, and consent to purchase-money being dealt with, [1342]
advance at each bidding—condition as to, [1292 (1)]
advertisement of, [1297]
affidavit of result of: one lot and reserved bidding, [1317]; and no reserved bidding, [1317], [1321]
several lots and reserved biddings, [1309]; and no reserved biddings, [1313]
auctioneer, direction to: one lot and reserved bidding, [1314]; and no reserved bidding, [1319]
several lots and reserved biddings, [1306]; and no reserved biddings, [1311]
fitness of—affidavit as to, [1296]
sureties of. *See* deposit, *infra*.
bidding paper for several lots, [1308]; without reserve, [1312]
one lot, [1316]; without reserve, [1316], [1320]
bidding at: by party, leave for—summons for, [1300]; without leave, acceptance of—summons for, [1322]
opening—notice of motion or summons for, [1358]; affidavit in support, [1359]
reserved: condition as to, [1292 (2)]. *See* reserved biddings, *infra*.
bidding paper: condition as to [1292 (3)]
certificate of result of—condition as to, [1292 (5)]
form of: one lot and reserved bidding, [1318]; and no reserved bidding, [1318], [1321]
several lots and reserved biddings, [1310]; and no reserved biddings, [1313]

SALE UNDER JUDGMENT OR ORDER—*continued.*
compensation: allowance of, and payment in of balance—purchaser's summons for, [1333]
condition as to, [1292 (9)]
payment of, by purchaser—vendor's summons for, 566 (*r*), [1334]
conditional contract of, [1360]
carrying out summons for, [1361]; the like, subject to a variation, [1362]; affidavit in support, [1363]
confirming—summons for, and payment of purchase-money, [1364]
conditions of, 543—547, [1292]
print of—certificate verifying, [1301]
settlement of: by conveyancing counsel—direction for—memorandum of, [1291]
special, [1293]; certificate verifying copy of, as settled by conveyancing counsel, [1294]
conduct of, 540, 541 (*b*): appointment of stranger for—summons for, [1288]
confirmation of conditional contract of—summons for, [1361], [1362], [1364]
consent of incumbrancer to, free from incumbrance, [1287]
conveyance on: person to convey—summons for appointment of, [1339]
settlement of, on, [1202—1206]
And *see* CONVEYANCE ON SALE UNDER JUDGMENT OR ORDER.
covenants for title—condition as to, [1293 (7)]
delivery out of documents to purchaser—summons for, [1341]
deposit at: compelling payment in of—summons for, [1323]
condition as to, [1292 (4)]
security for: payment or transfer into Court of—summons for, [1305]
payment or transfer out of Court of—summons for, [1324]
recognizance as, [1302]; vacating—summons for, [1324]
sureties for: solvency of—affidavit of, [1303]
undertaking by auctioneer to pay in deposits, [1304]
directions to auctioneer: for sale in lots, where there are reserved biddings, [1306]; without reserve, [1311]; in one lot, where there is a reserved bidding, [1314]; without reserve, [1319]
discharge of purchaser—summons for, by purchaser, [1355]; by vendor, [1356]
documents for: delivery out of Court of—summons for, [1289]
easements—condition of sale as to, [1293 (4)]
evidence—proceedings in action to be conclusive—condition of sale, as to, [1293 (3)]
expenses to be borne by purchaser—condition of sale as to, [1293 (6)]
identity of parcels—condition of sale as to, [1293 (5)]
income-tax—condition of sale as to, 545 (*u*), 563 (*e*), [1292 (8)]
incumbrances: free from—mortgagee's consent to, [1287]
freed from—declaration that land sold is—summons for, [1351]
keeping on foot by purchaser: leave for—summons for, [1348]
payment into Court of amount required to discharge an incumbrance on property sold—summons for, [1350]
payment off by purchaser: leave for—summons for, [1347]
out of purchase-money in Court—summons for, 570 (*c*), [1349]
lodgment and payment schedule to summons by purchaser for leave to pay the purchase-money into Court, 562 (*d*), 564 (*l*), [1329]
lots: see directions to auctioneer, *supra*
lotting: mode of—affidavit as to, [1295]
objections to title—condition of sale as to delivery of, [1992 (6)]
opening biddings on—notice of motion or summons for, [1358]; affidavit in support, [1359]
outgoings—condition of sale as to, [1292 (8)]
parcels, identity of—condition of sale as to, [1293 (5)]

References to the Forms are printed thus [479].

SALE UNDER JUDGMENT OR ORDER—*continued.*
particulars of, 541 (*c*); introductory, [1290 (1)]; formal, [1290 (2)]
prints of—certificate verifying, [1301]
payment in of deficiency on resale—summons for, [1353]
deposits: of—summons for, [1323]
incumbrance—of amount required to discharge—summons for, [1350]
purchase-money: of—summons to compel, and for a resale on default, [1352]
leave for—summons for, 562 (*d*), 563 (*i*), [1329]; without prejudice, [1331]; several in one order, [1330]
residue of purchase-money after deducting allowance for compensation—summons for, [1333]
residue of purchase-money, after keeping up incumbrances: of, leave for—summons for, [1345]
possession: delivery up of—condition of sale as to, [1292 (8)]
to be let into—summons for, 566 (*q*), [1332]
print of particulars and conditions—certificate verifying, [1301]
purchase-money:
compensation out of—allowance of, and payment in of residue—summons for, [1333]
condition of sale as to, [1292 (8)]
dealing with—purchaser's consent to, [1342]
notice for [1343]; affidavit of service of, and that purchaser has had his conveyance, [1344]
interest on—leave to pay into Court—summons for, by purchaser, [1329]; by separate purchasers, [1330]
payment of, into Court: leave for—summons for, [1329]; without prejudice, [1331]; several in one order, [1330]
residue after keeping up incumbrance: leave for—summons for, [1348]
paying off incumbrance with: leave for—summons for, [1347]; if money in Court, [1349]
restraint on, by purchaser—discharge of—summons for, [1345]; affidavit in support, [1346]
recognizance on, 561 (*a*). *See* deposit, *supra.*
requisitions on title—condition as to delivery of, [1292 (6)]
re-sale: condition of sale as to, [1292 (10)]
default of payment of purchase-money: in—summons for, [1352]
deficiency on: payment of—summons for, [1353]
notice of motion or summons for, [1358]; affidavit in support, [1359]
rescission of contract—condition of sale as to, [1293 (1)]
reserved biddings,
affidavit for purpose of fixing, [1298]
condition as to: on sale under judgment or order, [1292 (2)]
note of: one lot, [1315]; several lots, [1307]
valuation for—form of, [1299]
result of, in several lots—Chief Clerk's certificate of, [1310]
affidavit of, by auctioneer, [1309]
in one lot—Chief Clerk's certificate of, [1318]
affidavit of, by auctioneer, [1317]; and *see* affidavit, *supra.*
root of title—condition of sale as to, 543 (*e*), [1293 (2)]
settlement of conveyance, on, [1202—1206]; and *see* CONVEYANCE ON SALE UNDER JUDGMENT OR ORDER.
substitution of purchaser—summons for, [1357]
summons for, [1286]
sureties for deposits, at. *See* deposit, *supra.*

SALE UNDER JUDGMENT OR ORDER—*continued.*
surveyor—affidavit by, as to the amount to be fixed for the reserved biddings, [1298]
valuation by, [1299]
tender, by—advertisement of, [1326]
form of, [1327]
timber, 544 (*p*): value of—condition as to ascertaining, [1292 (7)]
title—Chief Clerk's certificate as to result of inquiry as to, [1215]
inquiry as to—purchaser's summons for, [1354]
title deeds—condition of sale as to, [1293 (8)]; acknowledgment of right to production, [1293 (8)]
unsold lots—summons for sale of, [1325]
valuation for, [1299]
vesting order—summons for, [1340]

SAMPLES:
taking, 785; notice of motion or summons for, [1813]; in patent case, [1816]

SATISFACTION:
demand: of, 223—225. *See* PAYMENT INTO COURT.
execution: of writ of—acknowledgment of, [918]
entry of—notice of motion or summons for, [921]; petition of course, [919]; special petition, [920]
lis pendens: of, [362—365]. *See* *LIS PENDENS.*

SCANDAL:
affidavit: in, 276 (*c*), (*e*)
striking out—notice of motion or summons for, [679]
taking off file for—notice of motion or summons for, [678]
pleadings, in: striking out—summons for, [480]

SCHEDULE:
to summons for lodgment of cash and transfer of securities into Court, [1739]. *See* PAYMENT INTO COURT.
to summons for sale of securities and payment of cash, [1786]. *See* PAYMENT OUT OF COURT.

SCHEME OF ARRANGEMENT:
by railway company, 918—925. *See* RAILWAY COMPANIES' ACT.

SCHEME OF MANAGEMENT OF A CHARITY, formal parts of, [2040]

SCHOOL BOARD:
description of, in writ of summons, [204 w]

SCIENTIFIC PERSON:
inspection by—notice of motion or summons for, [1816]. *See* INSPECTION OF PROPERTY.
letter of instructions to, [1138]
report of: affidavit verifying, [1139]

SCOTLAND:
affidavits: before whom sworn in, 10 (*f*)

SCOTLAND—*continued.*
judgment of English Court—enforcement of, in, 369
certificate, where judgment for plaintiff, [925]
where for defendant, [926]
law of: ascertainment of, 813—815. *See* FOREIGN LAW, ASCERTAINMENT OF.
order made by Court in: making order of the High Court—motion-paper for, [933]
witness in: compelling attendance of, 300 (*d*). *See* SUBPŒNA, WRIT OF.

SEALING UP IRRELEVANT OR PRIVILEGED MATTER:
leave for—summons for, [1848]; affidavit on, [1849]

SEARCHES FOR INCUMBRANCES, 496—506; summary of departments and registries in which searches to be made, 496—497 (*f*), (*ff*)
affidavit of result of, [1207]
non-official searches—
bankruptcies prior to Oct. 11th, 1849, for, 500
bankruptcies under the Acts of 1849, 1861, or 1869, for, 499
compositions or schemes of arrangement under Bankruptcy Act, 1883, for, 499
Court rolls, in, 498
creditors' deeds under Acts of 1861 or 1869, for, 500
enrolments in the Central Office which have been transferred to the Public Record Office, for, 498
insolvency before 1861, for, 500
Lancaster—Common Pleas, in, at, 501
Palatine Court, in, 501
land improvement rent charges, for, 500
Middlesex registry, in, 498
receiving orders and adjudications under the Bankruptcy Act, 1883, for, 499
official searches under Conveyancing Act, 1882—
continuation of search—requisition for, [1214]
declaration as to purposes of search, by separate instrument, [1208]; when contained in the requisition, [1209]
requisition for search in the bills of sale department, [1211]
in the enrolment office, [1210]
in the registry of certificates of acknowledgments of deeds by married women, [1212]
in the registry of judgments, [1213]
result of—affidavit of, 496—497 (*f*), (*ff*), [1207]

SECURITIES:
carrying over, 758—759. *See* CARRYING OVER MONEY OR SECURITIES IN COURT.
transfer into Court, 742—744, 746—747. *See* PAYMENT INTO COURT.
what may be directly transferred or deposited in Court, 747 (*d*)
transfer out of Court, 760, 767, 773—777. *See* PAYMENT OUT OF COURT.

SECURITY FOR COSTS, 837—844. *See* COSTS, SECURITY FOR.

SEPARATE ACCOUNT, [1767]. *See* FUND IN COURT, CARRYING OVER.

SEPARATE TRIALS:
of distinct causes of action—notice of motion or summons for, [815]

SEQUESTRARI FACIAS DE BONIS ECCLESIASTICIS, WRIT OF, 385—386
address of defendant—indorsement of, [966]
form of, on judgment for payment of money, [968]
on judgment directing an act other than the payment of money, [1034]
indorsements on, [936—938], [969]; of address of defendant, [966], [970]
motion paper for, [1032]
præcipe for, [967], [1033]

SEQUESTRATION, 404—413, 409 (*o*)
account under—notice of motion or summons for, [1042]
attornment by tenant, under, [1038]
notice for, [1037]
notice of motion or summons for, [1039]; affidavit in support, [1040]
cases in which issued, 404 (*a*)
costs for: leave to issue—summons for, 405 (*b*), [1023], [1447]
dissolution of—notice of motion or summons for, [1044]
examination *pro interesse suo*, under—notice of motion or summons for, [1043]
execution of the writ—general notice by sequestrators, [1036]
notice by sequestrators under writ, [1036]
sale under: leave for—motion paper, notice of motion or summons for, [1041]
writ of—form of, [1028]
indorsements on—of name and address of solicitor or party issuing writ, [936], [937]; of address of defendant, [1030]
leave to issue for payment of costs—summons for, 405 (*b*), [1023]
leave to issue against the property of a corporation, or of the directors or officers thereof—notice of motion or summons for, 405 (*c*), [1024]
notice by sequestrators, under, [1036]
præcipe for, [1027]
return to, of *nulla bona*, [1031]
sheriff's return to writ of attachment, on—motion paper for, [1025]; the like on keeper's certificate or serjeant-at-arms' return, [1026]
And *see* SEQUESTRARI FACIAS DE BONIS ECCLESIASTICIS, WRIT OF.

SEQUESTRATORS:
accounting by—notice of motion or summons for, [1042]
accounting to—general form of notice for, [1036]
attornment to—form of, [1038]
notice for, [1037]
notice of motion or summons for, [1039]; affidavit in support, [1040]
discharge of—notice of motion or summons for, [1044]
powers and duties of, 409 (*o*)
who may be, 407 (*i*)
And *see* SEQUESTRATION.

SERJEANT-AT-ARMS:
imprisonment of contemnor brought up by—motion paper for, [1008]
return of *non est inventus*—motion paper for, on, [1007]

SERVICE:
abroad, 143—148. *See* SERVICE OUT OF JURISDICTION.
acceptance of, and undertaking to appear, [366]
address for, of solicitor, [3]; of party in person, [4]
admissions: of notice for, and refusal to admit—affidavit of, [655]
extension of time for—summons for, [652]

SERVICE—*continued.*
affidavit of,
appeal—of cross-notice of, [1462]
charging order *nisi* on judgment debtor, of, [32], [1052]
injunction—of order for, [1628]
judgment or order, of, [32]
of notice of, [165]; on numerous parties [166]; by post, [167]; and *see* JUDGMENT, NOTICE OF.
notice of motion, of, [31]
notice to creditors to prove claim, of, [1177]
notice in lieu of writ of summons, of, [370]
notice of motion, of a, [31]; time for filing affidavit, 16 (*a*)
petition, of a, [33], [1604]
post, by. *See* POST.
purchase-money—of notice of intention to deal with, and that the purchaser has had his conveyance, [1344]
served—affidavit of having been, [35a]
subpœna, of a, [766]
substitute, on a, [35]. And *see* SERVICE, SUBSTITUTED, 141—143
summons, ordinary, of an, [34], [34 a], [35]; on a substitute, [1092], [35]; where no appearance, by filing, 19 (*k*)
originating, of an, [1089]; on a substitute, [1090]
time for filing, 16 (*a*)
writ of summons, of, or notice in lieu of, 166—171, [414]. *See* SERVICE OF WRIT OF SUMMONS AND AFFIDAVIT OF SERVICE.
garnishee order *nisi*, of, 423 (*n*)
judgment or order of, 74—80. *See* JUDGMENT, NOTICE OF.
jurisdiction, out of, 143—148. *See* SERVICE OUT OF JURISDICTION.
letter, by. *See* POST.
substituted, 141—143. *See* SERVICE, SUBSTITUTED.
taxation—of order for, 869, [2019 (8)]
wife, on, or husband, of writ of summons, dispensing with—summons for, [133]
writ of summons, of, 140—149. *See* SERVICE OF WRIT OF SUMMONS.
And *see* SERVICE OUT OF JURISDICTION—SERVICE, SUBSTITUTED—POST.

SERVICE OUT OF JURISDICTION, 143—148; summary of material provisions of R. S. C. 1883, as to, 143—144 (*a*)
affidavit in support of application for: of summons or notice of a writ of summons, [372]
affidavit in support of application for, on a person who is a necessary or proper party to an action, [373]
carrying on proceedings: of order for—summons for leave for, [183]
discharging order for, and setting aside service—notice of motion for, [381]
discharging order for service of writ of summons on a foreigner out of British dominions—notice of motion for, [382]
notice of judgment: of—motion paper or summons for, [161]
petition: of—motion paper for, [1602]
subpœna, of: for infant defendant on coming of age to show cause against judgment—motion paper for, [104]
summons, ordinary: of,—summons for, [1087]; affidavit in support, 1088]
writ of summons for, 100 *et seq.*
application for—affidavit in support of, [372]; affidavit, where necessary or proper party out of jurisdiction, [373]
concurrent with one within the jurisdiction—leave to issue—motion paper for, [343]; summons for the like, [344]; affidavit in support, [345]
discharge of. *See* setting aside, *infra.*

SERVICE OUT OF JURISDICTION—*continued.*
notice instead of, [200], [374]; where writ issued from district registry, [375]
ordinary, [200]; where issued from district registry, [202]
specially indorsed, [201]; where issued from district registry, [203]
setting aside, 151; notice of motion for, [381]; on a foreigner, [382]; affidavit in support, [383]

SERVICE OF WRIT OF SUMMONS, 140—149; summary of material provisions of R. S. C. 1883, as to, 140 (*a*)
abroad. *See* SERVICE OUT OF JURISDICTION.
acceptance of, and undertaking to appear, [366]; by indorsement, [367]
affidavit of, 166—171, [414]—[418]
company or corporation: on, 168, [414]
defendant personally: on, 166, [414]
firm: on a, 167, [414]
foreigner: on a, 143—148. *See* SERVICE OUT OF JURISDICTION.
hundred: on the inhabitants of a, 168, [414]
husband and wife: on, where special service directed on one, 166, [414]
lunatic: on a, 167, [414]
infant: on an, 166, [414]
inhabitants of any county, of any city or town, &c., not part of a hundred: on the, 168, [414]
land: in action for recovery of, in case of vacant possession, [415]
notice in lieu of, [416]: on foreign subject out of British dominions, [417]
partner sued in firm name: on a, 167, [414]
substituted service, [416]
unsound mind: on a person of—not so found, 167, [414]. And *see* AFFIDAVIT OF SERVICE.
indorsement on, after service, 149 (*m*), [376]
infant: on an, personally—summons for, [90]; affidavit in support, [91]
jurisdiction: out of, 143—148. *See* SERVICE OUT OF JURISDICTION.
post: by, 141. *See* POST.
setting aside: notice of motion for, [380]
substituted, 141—143. *See* SERVICE, SUBSTITUTED.

SERVICE, SUBSTITUTED, 141—143; summary of material provisions of R. S. C. 1883, as to, 141 (*c*)
affidavit of service on a substitute, [35]
carrying on proceedings: of order for—motion paper for, [184]; summons for, [185]; affidavit in support, [186], [990]
garnishee order *nisi*, of—summons for, [1057]; affidavit in support, [1058
indorsement on writ of service thereof, 149 (*m*), [376]
judgment or order, of—motion paper or summons for, [989]; affidavit in support [990]
notice of judgment, of—summons for directions for, [160]
order, of—motion paper for, [184]; summons for, [185]
petition, of—motion paper for, [1601]
post, by, 141. *See* POST.
subpœna, of, for defendant to name solicitor, [2017]
subpœna, of, for infant defendant on coming of age to show cause against judgment—motion paper for, [105]
summons, ordinary, of—summons for, [1085]; affidavit in support, [1086]
originating—summons for, [1084]
writ of summons, of—motion paper for, [368]; summons, [369]; affidavit in support, [370]
notice for insertion in newspapers, [371]

References to the Forms are printed thus [479].

SET-OFF. *See* COUNTERCLAIM AND SET-OFF.

SETTING DOWN. *See* ENTRY, and the various proceedings.

SETTLED ESTATES ACT, 1877, 981—994.
application under : notice of, [2240] ; notification annexed, [2241] ; by advertisement, [2244]
service of, directions for—summons for, [2239]
dispensing with—summons for, [2242]
opposition to, leave to be heard in—motion paper or notice of motion for [2245]
time for hearing of—notice of, [2247]
affidavit that no application has been made to Parliament, [2224]
application for copy of petition, under, [2245]
examination of married woman, under. *See* married woman, *infra.*
infant, guardian of : appointment of—summons for, [2225] ; affidavit in support, [2227] ; before petition presented, [2226]
consent by, to act, [2228]
infant tenant in tail : guardian of—affidavit by, in support of application for leave to make or consent to application, or to give a notification, [2229]
leases in general : power to grant, under, 981 (*o*)
order vesting in trustees—petition for, [2221]
lease, a particular : authority for, under, 983 ; petition for, [2222]
lunatic tenant in tail : direction to committee of, to make application, &c.—summons for, [2230]
married woman—examination of, under, as to consent, by Judge at Chambers, [2235]
certificate of, [2236]
identity of, and of certificate—memorandum of, [1800], [2238]
minute of, [2231]
signatures to, and certificate—affidavit verifying, [2237]
examiner : appointment of—request for, [2232]
special : appointment of—summons for, [2233] ; affidavit in support, [2234]
notice under. *See* application, *supra.*
petition under. *See* application, *supra.*
copy of—application for, [2246]
purchase-money : application of—petition for, [2248]
sale under—petition for, [2223]
trustees for person interested pursuant to s. 30—notice to, [2243]

SETTLED LAND ACTS, 1882 & 1884, 999—1010.
advice and direction of the Court—summons for, [2281]
chattels : sale of, out of Court—summons for, [2261] ; by the Court, [2262]
contract : enforcement of—summons by tenant for life, for, [2275]
directions as to matter in difference between a tenant for life and the trustees of the settlement—summons for, [2280]
directions as to service of petition—summons for, [2283]
dividends : payment of, upon investment—consent by person paying in, to, [2268] ; affidavit verifying signature to consent, [2269]
formal parts of summons under, [2257]
improvements, scheme for : approval of—summons for, [2270]
capital money : application of a specific portion of, in—authority for—summons for, [2273]
fund in Court : application of, in—summons for, [2274]
surveyor or engineer : appointment of—summons for, [2271]
nomination of, by the trustees, [2272]

References to the Forms are printed thus [479].

SETTLED LAND ACTS—*continued.*
infant: appointment of a person to exercise powers, on behalf of—summons for, [2282]
leasing powers: general—summons for, [2258]
particular lease, where the tenant for life has entered into a contract—authority to grant—summons for, [2259]
where no contract has been entered into—authority to grant—summons for, [2260]
lessee under mining lease: payment into Court by—summons for, [2265]
mansion house and demesnes, or timber or chattels: sale out of Court of—summons for, [2261]
sale by the Court of—summons for, [2262]
payment into Court by lessee under mining lease—summons for, [2265]
mortgagee, by, [2266]
purchaser of settled land, timber or chattels, by, [2664]; affidavit in support, [2267]
petition: service of—directions as to—summons for, [2283]
protection of settled land: sanction of Court to proposed proceedings for—summons for, [2277]
purchase-money of lease or reversion: application of—summons for, [2276]
purchase-money of settled land, timber, or chattels: payment into Court—summons for, [2264]
summons under, formal parts of, [2257]
tenant for life—liberty to exercise powers conferred by the Act, notwithstanding settlement by way of trust for sale, [2284]
timber: sale of, out of Court—summons for, [2261]; by the Court, [2262]
title—affidavit verifying, [2263]
title of proceedings, [2256]
trustees for the purposes of the Act: appointment of—summons for, [2278]
evidence in support of summons, [2279]

SETTLEMENT:
allegation of—common form of, in petition to carry on proceedings, [179]
approval of: minute of order—recital of, in settlement, [1406]
deeds, of, 538—539; and *see* CONVEYANCE ON PURCHASE OR SALE UNDER JUDGMENT OR ORDER, 494—496.
infant, of, 591—598. *See* INFANT, MARRIAGE.
judgment, of, 355—358. *See* JUDGMENT, ENTRY OF.
lease, of, [1159], [1261]. *See* LEASE.
of none—affidavit by husband and wife, [1801]
preparation and completion of, [1401]; and *see* INFANT, MARRIAGE.

SHAREHOLDERS:
plaintiff suing on behalf of—description of, in writ of summons, [204 q]

SHERIFF:
bond to, in pursuance of writ of *ne exeat regno*, [1663]
committal of, for contempt—notice of motion for, [1016]
inquiry before, on writ of *elegit*, 390. *See ELEGIT*, WRIT OF.
interpleader by, 681. *See* INTERPLEADER.
return of writ by, 378—380. *See* RETURN; and *see* also the Particular Writs.

"SHORT" CAUSE:
action: hearing of, as, 330 (*x*); certificate for, [822]
marking of, as—notice of, [823]

References to the Forms are printed thus [479].

"SHORT" CAUSE—*continued.*
further consideration: hearing of, as—certificate of fitness by counsel, [1424]
marking of, as—notice of, [1425]
motion for judgment: hearing as, 321; certificate for, [804]
marking of, as—notice of, [805]

SHORT ORDER:
accounts, for—direction for, [1218]; summons for, [1219]
against receiver, [1711]

SHORTHAND-WRITER'S NOTES:
leave to use—motion paper for, [1463]
transcript of—affidavit verifying, [670]

SOLICITOR, 858—873:
agent: change of—notice of, and of solicitor, [2008]
appointment of: authority for. *See* authority, *infra.*
party acting in person, instead of—notice of, [2007]
separate application; for, by co-plaintiff—motion paper for, [2012]; petition of course, [2013]
subpœna for, [2015]; indorsement, [3], [4], [2016]; *præcipe*, [2014]
substituted service of—motion paper for, [2017]
authority to, 863—864; by adult to bring an action, [195], [2001]; indorsed, [2002]; by next friend, [68], [69], [108], [2004]
defend an action, to, [384], [2003]; by guardian *ad litem*, [93], [96], [118], [2005]
relator: by, [45], [2006]
bill of costs of—delivery and taxation of, 867—873. *See* TAXATION.
change of,
agent: of notice of, and of solicitor, [2008]
town—notice of [2010]
client's intention to act in person—notice of, [2011]
delivery up of papers on: without prejudice to lien—summons for, in administration action, 863 (*n*), [2000]
notice of, [2009]
party to act in person: for, notice of, [2011]
charging order for costs, 860 (*j*)—863
costs of, bill of—delivery and taxation of, 867—873. *See* TAXATION.
lien for. *See* lien *infra.*
defence by: authority for. *See* authority *supra.*
lien of: for costs, 860—863; charging order on fund in Court: to enforce—petition for, [1997]; on money recovered—summons for, [1998]; on property recovered or preserved—petition for, [1999]
delivery up of documents to new solicitor—without prejudice to lien—summons, for in administration action, [2000]
London agent of. *See* agent, *supra.*
names of solicitors concerned in action—note of, to be left at Chambers, [1158]
new. *See* change, *supra.*
removal of. *See* change, *supra.*
request by, to Bank of England to furnish him with a certificate of stock, [1134]
retainer to. *See* authority, *supra.*
striking off the roll: compulsory—application for—notice to Registrar of, 860 (*f*), (*g*), [1995]
notice of motion for, 860 (*h*), [1996]
voluntary—motion paper for, [1992]; petition of course, [1993]; affidavit in support, [1994]

SPECIAL CASE, 853—857 ; summary of material provisions of R. S. C. 1883, as to, 853—854 (*a*)
amendment of—notice of motion or summons for, 856 (*f*), [1984] ; by consent —petition of course for, [1983]
appearance—memorandum of, [1985]
notice of, [1986]
argument : setting down question of law for—notice of motion or summons for, [1980]
brief on, contents, 857 (*k*), [1991 (1)] ; indorsement, [1991 (2)]
fee on filing, 855 (*c*)
filing, notice of, [1982]
form of, [1981]
setting down—leave for—notice of motion or summons for, [1987] ; affidavit in support, [1988]
memorandum on, [1989]
notice of, [1990]
signature of counsel, 855 (*d*)
statement of—notice of motion or summons for, [1979]

SPECIFIC PERFORMANCE :
action for, 651—655
certificate, further, by Chief Clerk, of amount due to vendor, and of settlement of draft conveyance, [1523]
fixing time for payment of amount due to vendor—notice of motion or summons for, [1524]
conveyancing counsel—direction to, to advise on title—memorandum of, [1521]
statement of claim in action for, [503]
time for payment of amount due to vendor—notice of motion or summons to fix, [1524]
title—inquiry as to—notice of motion or summons for, [1518] ; result of inquiry —Chief Clerk's certificate as to, [1522]
judgment or order directing inquiry as to—summons to proceed on [1159], [1519]
statement of the points in dispute, for Chambers, [1520]
Vendor and Purchaser Act—originating summons, under, for decision of Judge as to questions of, [1525]
writ of summons for, indorsement on, [213], [1517]

STANNARIES, COURT OF VICE-WARDEN OF :
enforcing judgment of—motion paper or summons for, on common law side, 370 [930] ; on equity side, [931] ; affidavit in support, [932]

STAY OF EXECUTION, 365—367. *See* EXECUTION.

STAY OF PROCEEDINGS, 817—818, 845—852
actions, in, raising the same question—notice of motion or summons for by defendants, [1882] ; by plaintiffs, [1883]
administration action, in, after judgment in another—notice of motion or summons for, [1880], [1881]
agreement of compromise, enforcement of—notice of motion or summons for, [1971]
appeal : pending—notice of motion for, [1448]
arbitration : after agreement for reference to—notice of motion for, [1972]
authority : for want of, in action—notice of motion for, by sole plaintiff, [1957] ; by co-plaintiff, [1958] ; affidavit in support, [1959]
on ordinary summons—summons for, [1097] ; affidavit in support, [1098]
on originating summons—summons for, [1096] ; affidavit in support, [1098]

STAY OF PROCEEDINGS—*continued.*
compromise : agreement for—notice of motion or summons to enforce, [1971]
consent by—motion paper for, [1967] ; notice of motion, or summons for the like, [1969] ; petition of course for the like, [1968] ; special, for the like, [1970]
costs : until payment of—notice of motion or summons for, of former action, or in present action, [636], [1962] ; for dismissal of action in default of payment—further notice of motion or summons for, [1963]
until security given for [1935—1940]. *See* COSTS, SECURITY FOR.
frivolous and vexatious action : in—notice of motion or summons for, [613], [1964]
infant : by, on coming of age, [84—87]
or inquiry as to benefit—notice of motion or summons for, [78]
several actions brought for same purpose in the name of an, [79—82]
pending appeal. *See* appeal *supra.*
raising same question : defendant's notice of motion or summons for, [1882] ; plaintiff's, [1883]
special terms, on—motion paper, for, [1967] ; petition of course, [1968] ; notice of motion or summons, [1969] ; special petition, [1970]
submission to demand : on—notice of motion or summons for by defendant, [1965], [1966]
test action, 817 (*d*), (*e*), 818. *See* TEST ACTION.
vexatious action, notice of motion or summons for, [613], [1964]
And *see* DISMISSAL OF ACTION—DISCONTINUANCE.

STOP ORDER, 702—704
discharge of—summons for, [1647]
substituting assignee of a restraining party—summons for, [1645], [1646]
summons for, on an entire fund in Court, [1642] ; on a share of a fund in Court, [1643] ; affidavit in support, [1644]

STREAM :
pollution of, by Local Board—injunction to restrain—notice of motion for, [1619]

STRIKING OFF THE ROLL, 858—860. *See* SOLICITOR.

STRIKING OUT PARTIES, 65—68. *See* PARTIES AND PLEADINGS.

SUBPŒNA, WRIT OF, 300—309 ; summary of material provisions of R. S. C. 1883, as to, 300—301 (*e*)
ad testificandum
assizes, at, [736]
attendance—time for—notice of, [737]
examiner, before, [734]
form of, [734], [735], [736] ; indorsement on, [736 a]
habeas corpus ad testificandum, 304—306. *See HABEAS CORPUS AD TESTIFICANDUM.*
High Court, at sittings of, [735]
indorsement, on, [736 a]
Ireland. *See* Scotland, *infra.*
leave to issue for attendance in Court of witness to prove document—motion paper for, [676]
direction to issue, [677]
notice of time for attendance, under, [737]
præcipe for, [733]
referee, before, [734]

SUBPŒNA, WRIT OF—*continued.*
Scotland or Ireland: for witness in, 303
form of, [741]; indorsement, [742]
motion paper for, [738]; affidavit in support, [739]
notice to witness of time and place of attendance, [743]
præcipe for, [740]
service of, and notice—affidavit of, [766]
witness: calling upon, [762]
certificate of non-appearance of, [765]
indorsement of non-appearance of, [763]
order on, to attend and be sworn and examined—notice of motion or summons for, [767]; motion paper for the like purpose, [768]
duces tecum, 306 (*q*)
assizes, at, [753]
attendance—notice of time for, [755]
description of documents—degree of particularity required, as to, 306 (*r*)
examiner, before, [751]
High Court, at sittings of, [752]
indorsement on, [754]
Ireland. *See* Scotland, *infra.*
notice of time for attendance, under, [755]
præcipe for, [750]
referee, before, [751]
Scotland or Ireland: for witness in,
form of, [759]
motion paper for, [756]; affidavit in support, [757]
notice of time for attendance under, [761]
præcipe for, [758]
infant defendant, for, on coming of age to show cause against judgment, [102]; *præcipe* for, [101]
service of—affidavit of, [766]
solicitor: to name a, [2015]. *See* SOLICITOR.
witness: calling upon, [762]
certificate by examiner of non-attendance, or of refusal to be sworn, [764]
certificate by examiner of non-attendance or refusal to produce, [765]
indorsement of non-appearance, [763]
order on, to attend at his own expense and be sworn and examined—notice of motion or summons for, [767]; motion paper for the like purpose, [768]

SUBSTITUTED SERVICE, 141—143. *See* SERVICE, SUBSTITUTED.

SUBSTITUTION:
parties: of, 65—67; notice of motion or summons for, [140]; where interest or liability changed, 84—92. *See* SUCCESSORS.

SUCCESSORS, 84—92; summary of material provisions of R. S. C. 1883, as to, 84—85 (*a*)
carrying on proceedings against—petition of course for, [178]; allegations in, [179]
accounting party: of, on non-admission of assets—petition of course for, [181]
carrying on proceedings by: petition of course for, [176]; motion paper for like, [177]; allegations in, [179]
And *see* CARRYING ON PROCEEDINGS.

SUIT. *See* ACTION.

SUMMONS (CHIEF CLERK'S), 443
attendance of party or witness: for, [1109]
and production of documents: for, [1109]
formal parts of, [1109]
service of—affidavit of, and non-attendance thereunder, [1110]

SUMMONS FOR DIRECTIONS, 185, [447], [460]

SUMMONS (ORDINARY), 26 (*r*), (*w*), 27, 430—432: summary of material provisions of R. S. C. 1883, as to, 430 (*a*)
abstract of title, for delivery of, [1328]
account, for, where writ indorsed under R. S. C. 1883, Ord. III. R. 8, [430]
account, for order to leave, [1219]; for further time to leave, [1220]
account, taking or vouching, for special directions as to, [1243]
action, for leave to institute, [1248]; for leave to defend, [1249]; by receiver [1704]
add to judgment, to, [174]
additional accounts and inquiries, for, [1164]
admissions, to extend time for making, [652]
affidavit, filed after expiration of time allowed, for leave to use, [690]
filed before issue joined, for leave to use, [689]
proof of facts by, for order for, [696]
scandalous, to take off file, [678]
scandalous matter in, to strike out, [679]
time for filing, to enlarge, [684]
witness of, for order to read, [697]
affidavit of service of, [34], [34a], [1091]; on a substitute, [35], [1092]
agreement to take evidence by affidavit, for discharge of, [695]
for compromise, to enforce, [1971]
allowance pending litigation, for, [1144]
amendment of pleading, for, [471]; notwithstanding time expired, [476]
made without order, to disallow, [474]; made under order, [475]
matter abandoned by, for payment of costs of, [477], [478], [479]
time for, to enlarge, [472]
amendment of writ of summons, for, [355]; further time, for, [356]
amendments in writ of summons, to strike out, [358]
answer to interrogatories, for enlargement of time for, [1827]
order to file, for, [1830]; notwithstanding objections raised, [1833]
sufficiency of, to consider, [1832]
supplemental, for leave to file, [1829]
appearance after judgment, for leave to enter, [390], [399]
irregular, to set aside, [412]; unauthorised, [410]
to third party notice, for leave to enter, [151], [403]
withdrawal of, for, [409]
appearance, default of, for leave to enter judgment for specific chattels for, [423]
judgment regularly entered for, to set aside, [433]; for irregularity, [435]
apprenticeship of infant, for, [1389]
arbitration, for reference of action to, [2123]
arbitrator, for appointment of, under C. L. P. Act, 1854, [2125]
sole, for revocation of appointment of, [2124]
arrest of absconding debtor, for order for, [1665]
attachment, writ of, for leave to issue, [993]; for not leaving accounts at Chambers, [1221]
attornment to receiver, and payment of rent, for, [1695]; for same and payment of occupation rent, [1696]

SUMMONS (ORDINARY)—*continued.*
attornment to sequestrators, for, [1039]
award, to enlarge time for making, [2129]
bond, for leave to put in suit, [1673]
business, for leave to carry on, [1251]; by receiver, [1704]
carrying over securities, money on deposit, cash, dividends, and interest, for, [1754]
securities of a given value, for, [1757]
specific amounts of securities, and proportionate parts of dividends, for, [1755]
specific amounts of securities, parts of a larger sum, for, [1756]
specific amounts of securities to separate accounts, and payment of dividends to persons named in schedule, for, [1767]
causes of action, for exclusion of, [481]
causes of action, distinct, for separate trials of, [815]
certificate, Chief Clerk's, for variation of, [1415]; adjournment of into Court, note of, [1416]; notice of setting down to come on with further consideration, [1417]; to come on with adjourned petition, [1418]
charging order *nisi*, for, 418 (*b*), [1050]
charging sum recovered with amount of taxed costs, for, [1093]
claim, for admission of, after time, but before certificate, [1138]
after direction for apportionment, [1139]
claim, for payment of costs of unsuccessful, [1192]
claim, statement of, further time to deliver, for, [487]
amendments in, to disallow, [489]
liberty to amend, for, [488]
particulars of, for, [491]
part of, to strike out, [638]
unnecessary, scandalous or embarrassing matter in, to strike out, [490]
classification of parties, for, [1163]
commission for examination of witnesses, for issue of, [716]
compensation, for payment of, by purchaser, [1334]
compromise action or claim, for leave to, [1253]; by receiver, [1704]
conditional contract, to carry into effect, [1361]
and also to pay in purchase money, [1364]
subject to a variation, [1362]
conduct of action, for, 461 (*c*), [1154]
co-plaintiff, by, on plaintiff refusing to proceed, [1155]
conduct of sale, to give, to stranger, [1288]
consolidation of actions, for, against same defendant, [1877]; against different defendants on one contract, [1878]
administration actions, of, where no judgment, [1879]
conveyance on sale, to compel purchaser to leave draft, [1335]
to return draft, [1336]
conveyance on sale, engrossment, return of, to compel, [1336]
execution of, for order for, [1338]
co-plaintiff, infant, to strike out name of, [83]
refusing to proceed, to make defendant of, [141]
copy writ, where original lost, for leave to use, [350]
copyholds, for admission to, [1257]
costs, for payment of, where claim abandoned by amendment of writ, [360]; by amendment of pleading, [477]
defendant, by, on acceptance by plaintiff of amount paid into Court, [546]
time to deliver bill of, for further, [2033]
counsel, notice of attendance by, at hearing of, [1099]; on adjournment to the Judge, [1100]

References to the Forms are printed thus [479].

SUMMONS (ORDINARY)—*continued.*
counterclaim, amend, for leave to, [590]
amendments in, for disallowance of, [591]
exclusion of, for, [588]
further reply to, for leave to deliver, [589]
unnecessary, scandalous, or embarrassing matter in, to strike out, [593]
withdraw or strike out, to, [641]
County Court, for trial in, of action, [875]; of action of contract where claim does not exceed £50, [1899]
equity action or matter, for transfer to, of, [1903]
remittal to, of action of tort, for, [1901]
retransfer to, of action or matter, for, [1905]
creditors, list of, under Companies Acts, 1867, 1877, for directions as to settling, [2190]
cross-examination, for further time to serve notice requiring production of deponents for, [691]
of particular witness before an examiner, [694]
attendance of deponent for, who has made an affidavit, for, [1104]
de bene esse, for leave to examine witness, [786]
deposition taken, for leave to use, [791]
debts, for leave to pay, [1252]; by receiver, [1704]
defect in evidence, for leave to supply, [656]
defence, amend, for leave to, [537]
amendments in, for disallowance of, [538]
further time to deliver, for, [534]
other than of "not guilty," for leave to plead, [535]
particulars, for, [540]
strike out, to, for non-compliance with order to answer, [1835]; with order for discovery or inspection, [1869]
unnecessary, scandalous, or embarrassing matter in, to strike out, [539]
withdraw or strike out, to, [641]
defence, further, for leave to deliver, [461], [536]
further time to deliver, for, [463]
defend, leave to, in action for recovery of land—before judgment, for, [398]; after judgment, [399]
delivery out of deposited documents, for, [1865]
purchaser, to, [1341]
sale, for purposes of, [1289]
delivery out of Court, of securities passing by delivery, for, [1793]
of box deposited in Court, [1794]
deposit on sale by Court, to pay in security fund in respect of, [1305]
received at sale, to compel payment of, into Court, [1323]
deposit in Court of Exchequer bills, for, [1734]
of effects which must be placed in a box, [1738]
of securities passing by delivery, [1735]
of securities passing by deed, [1736]
deposition made before issue joined, for leave to use, [689], [715]
directions, for—plaintiff's, [447]; defendant's, [460]
discharge, vary, or add to judgment, to, leave to apply, for, [173]
discharge of irregular order to amend, for, [359]
discharge of receiver, for, [1717]
discharge of stop order, for, [1647]
discharge from custody on leaving accounts, for, [1230]
discontinuance of action, for, [637]; on special terms, [640]
discovery of names and addresses of customers, for, [1556]

SUMMONS (ORDINARY)—*continued.*
discovery, postponement of, until after determination of issue or question, for, [1826]
dismissal of action, for, on non-delivery of statement as to persons constituting plaintiff firm, when cause of action accrued, [54]
in default of payment of costs, [1963]
dismissal of, or inquiry as to action by infant, for, [78]
dismissal of action for want of prosecution, for, on default in delivery of claim, [615]
on default of reply, [629]
on default of giving notice of trial, [810]
on non-compliance with order to answer, [1834]
on non-compliance with order for discovery or inspection, [1868]
dismissal of summons taken out without authority, for, [1097]
originating, taken out without authority, for, [1096], [1960]
district registry, for action to proceed, in, [438], [1896]
accounts and inquiries, for prosecution, in, [1156]
removal of action from, to London, for, [1897]
removal to, from London, for, [1898]
dividends, for payment of, to tenant for life, [1759]
documents—affidavit of, and production, for, [1837]
further, as to particular documents, for, [1843], [1844]
further time to make affidavit, for, [1838]
sufficiency of, to consider, [1842]
documents, deposit of, in Court and inspection, for, [1857]
delivery out of Court, for, [1865]
further time for making deposit, for, [1858]
documents, production of for inspection, for, [1847]
notwithstanding objection to produce, for, [1852]
two or more parties, against, [1854]
transferee of interest or liability of person obtaining the order, by, [1855]
documents, irrelevant or privileged matter in, for leave to seal up, [1848]
documents, new solicitor, for delivery, to, [2000]
drainage works, for leave to execute, [1254]; by receiver, [1704]
elegit, for account of profits received by judgment creditor, under, [985]
enfranchisement, for confirmation of agreement for, [1256]; by receiver, [1704]
enlargement of return of, [1080]
enlargement of time for applying to discharge, vary, or add to judgment, for, [172]
evidence in Chambers, for enlargement of time for, [1136]
limitation of time for, [1135]
examination on interrogatories under judgment, enlargement of time to file, for, [1125]
limitation of time to file, for, [1124]
examination of married woman, for appointment of commissioners to take, [1796]
examiner, evidence of person under disability being taken before, for leave to consent to, [700]
examination of witnesses before, for, [701], [704], [1105]
witness, for attendance of, before, [767]
examiner, special, for appointment of, [702], [1106]
to take evidence of witness before, [705]
witness abroad, to take evidence of, [706]
execution—leave to issue, for, [906]
member of banking company, against, [909]
railway company, against, notwithstanding filing of scheme, [2112]

SUMMONS (ORDINARY)—*continued.*
execution, stay of, for, [913]; and enlargement of time for obeying judgment, [914]; and of all other proceedings in the action, [916]
execution, writ of, for leave to amend, [1076]
renew, for leave to, [1073]
forfeiture of lease, for relief from, 999 (*c*), (*d*), [2255]
formal parts of, [43], [44], [1077]; when returnable at Chambers of another judge, [1142], [1143]
further consideration of action, where estate is insolvent, for, [1432]
of matter originating in Chambers, for, [1427]
consent to premature issue and hearing of, [1428]
garnishee order *nisi*, for, [1055]
substituted service of, for, [1057]
guardian *ad litem* of infant, for assignment of, 46 (*u*), [94], [419]
removal of, and appointment of another, for, [100]
of defendant of unsound mind, for assignment of, [130], [419]
guardian of infant, for appointment of, where action is pending, [1371]
quasi of person, for appointment of, [1373]
guardian, special, for appointment of, [1383]
guardian under Settled Estates Act, 1877, for appointment of, [2225]
to be served with notice of application, and deliver a notification, [2226]
tenant in tail, of, for directions for, to make or consent to application, or to give a notification, [2229]
incumbrance, amount required to discharge, for payment into Court of, [1350]
declaration that land is freed from, for, [1351]
incumbrances, for payment of, out of purchase-money, before payment into Court, [1347]; after payment into Court, [1349]
incumbrances, to keep on foot, and pay in balance of purchase-money, [1348]
infant: action by—dismissal of, or inquiry as to, for, [78]
inquiries or accounts, for, 258 (*a*), [642]
inspection of documents, for postponement of, until after determination of issue or question, [1846]
inspection of premises in patent action, for, [1553]
of premises, and taking drawings, in light and air action, for, [1814]
of process of defendant, for, [1816]
of subject-matter of action, and taking samples, for, [1813]
of underground workings, for, [1815]
interpleader, for, 678 (*e*), 681 (*k*), [1574], [1575], [1576], [1578]
interrogatories, for leave to deliver, [1817]
member or officer of corporation, to, [1823
order to answer, for, [1830]
set aside or strike out, to, [1825]
sufficiency of answer to, for consideration of, and for further answer, [1832]
supplemental answer to, for leave to file, [1829]
time to answer, for, [1827]
viva voce examination on, for, [1831]
investment in purchase or mortgage of real estate, for, [1198]
investment in stock of cash or money on deposit, for, [1750]
in railway stock, [1751]
issue or question of fact, for trial of, without pleadings, [643]
issues, for trial of, [813], [814], [816], [817], [1555]
issues, trial of, to postpone, [797]
judgment on admissions, for, 245, 246 (*a*), [614]
for part of claim admitted, for, [620]
for recovery of specific chattels, for, [627]

SUMMONS (ORDINARY)—*continued.*
judgment, final, under R. S. C. Ord. XIV., liberty to sign, for, [439]
judgment in default of appearance, leave to enter for specific chattels, for, [423]
regularly entered, to set aside, [433]; for irregularity, [435]
judgment in default of defence, leave to sign, where part of claim admitted, for, [627]
regularly entered, to set aside, [630]; for irregularity, [632]
judgment or order, for entry of satisfaction of, [921]
for rectification of, [904]
time for obeying, to fix, [986]; to enlarge time fixed, [987]
time for act enjoined by, to enlarge, [992]
judgment debtor, for examination of, as to debts due to him, [1053]
judgment, motion for, leave to set down, for, [796]
notice of, to enlarge time for serving, [800]
postponement of issues, and leave to set down action on, for, [797]
judgment, notice of, for directions as to mode of service of, [160]
dispensing with, on particular persons, for, [160]
jurisdiction, for service on person out of, [161]
service, irregular, in case of, for leave to enter memorandum of, [168]
jurisdiction, for leave to take infant out of, [1384]
jury, for trial by, [814], [840]; by special, [842]; of issues, without, [817]
view, for, [843]
Lands Clauses Consolidation Acts, under, approval of investment in land of money deposited, for, [2094]
payment out to person absolutely entitled, for, [2095]
lease, agreement for, to approve, [1259]
approval of, where property under receiver, for, [1704]
draft, for settlement of, [1261]
renewal of, for, [1258]; where property under receiver, [1704]
lease belonging to infant, for surrender of, and acceptance of new one, [2156]
lease of infant's land, conditional contract for, to carry into effect, [2161]
grant of, on surrender of existing lease, for, [2158]
Legacy Duty Act, for payment out of fund paid in, under, [2152]
lis pendens, for entry of satisfaction of, [365]
lodgment in Court of cash, for, [1739]
lunatic and person of unsound mind, new next friend of, for appointment of, in lieu of one deceased, [73], [108]; in lieu of one incapacitated or removed, [75], [108]; on application of defendant, [77], [108]
next friend of, for removal of, [70], [108]; to substitute next friend for retiring one, [72], [108]
defendant, for special service, on, [115]
guardian *ad litem* of,
for assignment of, on application of plaintiff, [130]
for removal of, and appointment of another, [100], [118]
stay action brought by, till next friend named, to, [113]
maintenance of infant, for, [1386]; for increase of, [1388]
marriage of ward of Court, for leave for, [1399]
married woman, examination of, appointment of commissioners to take, for, [1796]
service on, or husband, of writ of summons, to dispense with, [133]
memorandum of service, for entry of, where service irregular, [168]
mortgagee, by, for new time for payment to be fixed, on failure to attend appointment, [1535]
mortgagee's account, for continuance of, on receipt of rents between certificate and redemption day, [1536]
mortgagor, by, to enlarge time for payment, [1534]

References to the Forms are printed thus [479].

SUMMONS (ORDINARY)—*continued.*
ne exeat regno, for writ of, [1657]
new trustees, for appointment of, [1276]
power of appointing, for liberty to exercise, [1277]
next friend of infant, for removal of, [70]
new next friend of infant, for appointment of, [72], [77]
incapacity or removal of former, on, [75]
next friend of person of unsound mind, for removal of, [70], [108]
new next friend of person of unsound mind, for, [72], [77], [108]
incapacity or removal of former, on, [75], [108]
notice of the judgment, for special directions as to service of, [160]
service of, out of the jurisdiction, for, [161]
notice limiting defence, for further time to deliver, [396]
notice of appointment for further consideration of, [1095]
notice of attendance of, by counsel, [1099]; of like attendance, on adjournment to the Judge, [1100]
open biddings, to, [1358]
opinion of foreign court, to apply, [1876]
outstanding estate, for conversion of, [1250]; by receiver, [1704]
Parliamentary Deposits Act, for payment out of cash or stock deposited, under, 900 (*j*), [2077]
for inquiries and distribution of deposited fund, not exceeding £1000, by landowners, or Treasury solicitor, [2085]; by liquidator, or receiver, [2086]
particulars, further and better, of property to which defence limited, for, [397]
particulars of pleadings, for, [483]; of claim, [491]; of defence, [540]; of set-off or counter-claim, [593]
amend, for leave to, [485]
particulars of breaches or objections, for amendment of, [1552]
parties, to add, strike out, or substitute, 66 (*b*), [140]
necessary, to add, by defendants, [146]
Pauper Lunatic Acts, for payment out, under, [1409]
payment into court, for, in satisfaction, [541]
damages, in respect of, [839]
of money, with interest, [1729]
mortgagee, by, of amount to be advanced by, [1267]
purchase-money, of, [1329], [1330], [1331], [1333], [1352], [1353], [1364]
compensation, after payment thereout, of, [1333]
deficiency of, after resale, [1353]
private contract, when sale by, [1364]
separate purchasers, by, [1330]
without prejudice, [1331]
receiver, by, [1712]—[1714]
on account of his balance, [1712]
to compel same, [1713]
representative of deceased receiver, by, [1714]
payment of dividends and interest, for, [1759]—[1768]
corporation sole, to, [1765]
married woman, for separate use, to, [1761], 762 (*r*)
officer of corporation aggregate, to, [1766]
persons named in schedule, to, of dividends or amounts carried over to separate accounts, [1767]
quarterly payments out of dividends, for, [1768]
tenant for life, to, [1759], [1760]
trustees of a settlement or will, to, [1763]
trustees of a charity, to, [1764]

SUMMONS (ORDINARY)—*continued.*
two persons and the survivor, to, [1762]
payment out of Court, for, of cash, part of a larger sum, [1778]
cash, of, with Pay Office Schedule, [1786]
money on deposit, of, [1780]
residue of fund, of, to applicant on coming of age, after payment of duties and costs, [1782]
sum certain, of, [1781]
sums specific of cash, of, to persons named in schedule, [1783]
petition of right, for time to plead or answer, to, [1587]
pleading disclosing no reasonable cause of action or answer, to strike out, [612]
leave to amend, for, [471]
special, subsequent to reply, leave to deliver, for, [604]
time to amend, for enlargement of, [472]
point of law, to set down for hearing, [608]
possession, to be let into, after payment in of purchase-money without prejudice, [1332]
preservation or custody of property, for, [1811]
proceed on judgment or order, to, [1159]
adjournment to Chambers, on, [1370]
case as to foreign law to be settled, order directing, on, [1872]
foreclosure action, on order in, [1528]
petition under Sir Samuel Romilly's Act, on, [2038]
receiver, on order for appointment of, [1679]
settlement of deed, on order for, [1278]
title, inquiry as to, on order directing, [1519]
proceedings, for leave to attend, [1162]
pro interesse suo, for examination, receiver in case of, [1698]
sequestrators—in case of, [1043]
protection of estate, for, on application to Parliament, [1255]
purchaser, for allowance as, of party bidding without leave, [1322]
purchaser, for discharge of, [1355]; by vendor, [1356]
question of law, for setting down, for argument, [1980]
Railway Companies Act, 1867, petition, under, to name a day for hearing, [2114]
receiver: account, for enlargement of time to leave, [1710]
to compel leaving, [1711]
to proceed on, [1707]
passing of, for leave to surety to attend, [1721]
representative of, to pass final account, for, [1714]
action—for leave for, to bring, defend, or compromise, [1704]
to bring action for arrears of rent, [1701]
appointment of, for, [1677]; after security given, [1686]
discharge of, for, [1717]
leave for party to propose himself as, for, [1681]
order appointing, to proceed on, [1679]
attornment to, and payment of rent, for, [1695]; for same and payment of occupation rent, [1696]
compromise claim, to: to carry on business: to pay debts: to approve agreements for enfranchisement: to obtain renewal of lease: to approve agreement to grant lease: to convert outstanding estate: to execute repairs or drainage works, [1704]
payment of arrears of rent to, for, [1699]
payment to, of monies received by defendant, for, [1702]
recognizance, for leave to put in suit, [1715]

SUMMONS (ORDINARY)—*continued.*
by surety, to stay action on, [1716]
for vacation of, [1718]
security of, for reduction of, where given by bond of Guarantee Society, [1720]
for new, to be given on death or bankruptcy of surety, [1719]
to settle, [1687]
redemption, time for, to enlarge, [1534]
failure of mortgagee to attend, in case of, [1535]
referee, accounts before, for taking, [1859]
for reference to, 340 (*b*), [856], [857]
for trial of question before, [858]
official, for trial of action by, [860]
rejoinder, further time to deliver, for, [605]
renewal of writ of summons, for, [347]
renewal of writ of execution, for, [1073]
repairs, for leave to execute, [1254]
reply, amend, for leave to, [599]
amendments in, to disallow, [600]
further time to deliver, for, [467]
unnecessary, scandalous, or embarrassing matter in, to strike out, [601]
reply, further, for leave to deliver, [467]
counterclaim, to, for leave to deliver, [598]
further time to deliver, for, [469]
representative of the estate, to appoint, [134]; to dispense with, [137]
of heir at law, next of kin, or a class, to appoint, [139]
representatives of deceased plaintiff, to compel to proceed, [189]
representatives of deceased defendant, by, to compel plaintiff to proceed, [190]
request, letter of, to examine witnesses, for issue of, [729 a]
resale, for, [1352]
deficiency on, to compel payment of, by former purchaser, [1353]
restraint on purchase money, for discharge of, [1345]
restraining transfer of stock, for cesser of operation of notice, [1639]
sale, for leave to bid at, [1300]
instead of foreclosure, for, 664 (*r*), [1541]
in partition action, for order for, [1513]
of property, for, [1812]
of real estate, for, [1286]
scheme for regulation of a charity, for adoption of, [2043]
seal up irrelevant or privileged matter, to, [1848]
security for costs, for, [1935]
better security, for, [1949]
company limited, from, [1939]
discharge of order for security, for, [1955]
further security, on death or bankruptcy of obligor, for, [1951]
increase of security, for, [1953]
limitation of time for giving, for, [1948]
security fund for costs, to pay in, [1946]
payment of costs out of, for, [1956]
security to be given by debtor, to determine sufficiency of, [1671]
securities in Court, for sale of, [1781], [1782]; with Pay-office Schedule, [1786]
securities passing by delivery, for delivery out of, [1793]
sequestration for costs—leave to issue, for, [1447]
corporation, property of, or of the directors or officers, against, 405 (*c*), [1024]
dissolution of, for, [1044]

SUMMONS (ORDINARY)—*continued.*
sequestrators, for attornment to, [1039]
for account by, [1042]
sequestrated property, for leave to sell, [1041]
service of, affidavit of, [34], [34 a], [1091]; on substitute, [35], [1092]
service on infant, for, 45 (*q*), [88], [90]
special, on defendant, lunatic, or of unsound mind, for, [105]
on husband or wife, to dispense with, [133]
service out of the jurisdiction of, summons for, [1087]
order adding parties, of, [183]
petition, of, [1603]
service, substituted, for, *see* substituted service, *infra.*
service of notice of judgment in partition action, to dispense with, [1510]
Settled Estates Act, 1877, under—for appointment of special guardian of infant, [2225]; to be served with notice of application, [2226]
directions for, to committee or guardian of infant tenant in tail, [2229]
directions for, as to service on party not concurring or consenting, [2239]
married woman, examiner of—for appointment of, [2233]
notice, to dispense with, [2242]
solicitors, for nomination of, to represent parties in Chambers, [1163]
special case, for, [1979]
amendment of, for, [1984]
set down, for leave to, [1987]
statement of claim, amend—for leave to, [488]
amendments in, to disallow, [489]
further time to deliver, for, [487]
particulars of, for, [491]
unnecessary, scandalous, or embarrassing matter in, to strike out, [490]
statement, on oath, of plaintiff's firm when cause of action accrued, for, [53], [453]; of defendant's firm, [55], [437]
stay of action, for—brought before costs of discontinued action paid, [636]
frivolous or vexatious, [613], [1964]
on reference to arbitration, [1972]
where several actions brought, raising the same question, [1882]
stay of proceedings, for—administration action, in, where judgment in another action, [1880], [1881]
bankruptcy of defendant, on, 37 (*b*), [65]
lunatic or person of unsound mind suing without committee or next friend, in case of, [113]
originating summons, under, because taken out without authority, [1096], [1960]
partnership action, in, where agreement to refer to arbitration, [1568]
railway company, against, after scheme filed, [2111]
receiver's recognizance, on, [1716]
special terms by consent, on, [1969]
submission to plaintiff's demand, on, [1965], [1966]
until costs paid, [1962]
until demand of names of plaintiff's firm complied with, [51]
until reply given to demand whether writ issued with authority of solicitor, [456]
stop order, for, on entire fund, [1642]; on share of a fund, [1643]
discharge of, for, [1647]
further, for, on assignment of interest by restraining party, [1645], [1646]
strike out amendments in writ of summons, to, [358]
defendant, name of, improperly joined, [145]

SUMMONS (ORDINARY)—*continued.*
defence, for non-compliance with order to answer, [1835]; for non-compliance with order for discovery or inspection of documents, [1869]
unnecessary, scandalous, or embarrassing matter in pleadings, [480]
substituted service, for, of judgment or order, [989]
order adding parties, of, [185]
summons, ordinary, of, [1085]
summons, originating, of, [1084]
writ of summons, of, [369]
substitution of one payee for another, for, [1795]
substitution of purchaser, for, [1357]
taxation, to review, [1444]
test action, for trial of [1883]
judgment, for entry of, after trial of, [1884]
third party notice, for leave to issue and serve, 69 (*b*), [147]
appearance to, for leave to enter, [151]
directions for, after appearance of third party to, 73 (*k*), [156]
set aside, to, [153]
third party, by, to set aside or vary judgment, [154]
judgment against, after decision of action otherwise than by trial, for, [155]
title, for inquiry as to, by purchaser, [1354]
in action for specific performance, [1518]
transfer into Court, for, [1733], [1739]
enlargement of time, for, [1741]
transfer out of Court, for, of annuities, money on deposit, and cash, [1784]
of parts of sums of stock, [1785]
of specific sums of stock and cash, [1783]
transfer of cause or matter commenced in wrong Division, for, [1885]
transfer of action, for, [1890]
after order for winding-up, or administration, [1893]
transfer of proceedings to administer estate of deceased debtor, for, 38 (*c*),[66]
trial, for, of different questions of fact by different modes, [816]
of issues, without a jury, [817]
Judge and jury, by, [814], [840]
jury, special, by, [842]
trial, mode of, for special order as to, [813]
trial, new, to enlarge time for moving for, 349 (*b*), [878]
trial, place of, to change, [808]
trial, notice of, for countermand of, [819]
for extension of time for giving, [809]
trials, separate, of distinct causes of action, for, [815]
trustees, new, for appointment of, [1276]
power of appointing, for leave to exercise, 537 (*t*), [1277]
Trustee Acts, 1850 and 1852, under, [1339], [1340], [2067], [2068], [2070], [2073]
appointment of person to convey, for, after judgment or order for sale, [1339], [2068]; after judgment or order for conveyance, [2070]
vesting order, for, after judgment or order for sale, [1340], [2067]; after judgment or order for conveyance, [2069]; after judgment or order directing transfer of stock, [2073]
unsold lots, for sale of, [1325]
unsound mind, person of, for appointment of guardian and maintenance of, [1407]
vacation of receiver's recognizance, for, [1718]
recognizance for deposits of, [1324]
value of goods or damages, for ascertainment of, [425]
vendor, amount due to, to fix time for payment of, [1524]

References to the Forms are printed thus [479].

SUMMONS (ORDINARY)—*continued.*
viva voce examination of party, for, [1831]
ward of Court, apprenticeship of, for, [1389]
jurisdiction, for leave to take out of, [1384]
leave to marry, for, [1399]
withdrawal of action entered for trial, for, [825]

SUMMONS (ORIGINATING), 432 (*h*), (*i*); summary of material provisions of R. S. C. 1883, as to, 432 (*g*)
administration of deceased person's estate, for determination of question or matter arising in, [1146]
administration of real and personal estate, for, [1148]
of trust under deed or instrument, for, [1149]. And *see* ADMINISTRATION OF ESTATES AND TRUSTS ON ORIGINATING SUMMONS, 455—461
amendment of, without order—direction for, [1082]
præcipe for, [1083]
appearance to—memorandum of, [1093]
notice of entry of, [1094]
arbitrator, for appointment of, [2125]
revocation of appointment, for, [2124]
award, to enlarge time for, [2129]
Burial Acts, for appropriation of charity lands under, [2044]
certiorari, writ of, to remove action from County Court, for, [1907]
to remove judgment of County Court, for purpose of issuing execution, for, [1915]
to remove action or suit out of the Lord Mayor's Court, for, [1922]
to remove judgment for purpose of having execution, for, [1931]
Charitable Trusts Acts, for relief, under, [2041]
Charitable Uses Acts, to enrol deed, under, [2046]
Consolidated Fund Act, 1874—to confirm contract for sale of an annuity, under, [2220]
Copyhold Acts—for investment of money paid in and payment of dividends, under, [2166]
County Court, for continuation of suit or matter in, [1914]
for transfer of cause or matter from, [1906]
for payment out of legacy paid in under order of, [2187]
Defence Acts—for investment of compensation, and payment of income, under, [2168]
investment in purchase of real estate, for, [2170]
dismissal of, because issued without authority—summons for, [1096]
documents, production of, under an acknowledgment of right to production, for, [2251]
documents contained in undertaking for safe custody, for inquiry as to damages sustained by loss of, [2252]
Drainage and Improvement of Land Acts—for commissioners to proceed with improvements, under, [2172]
enlargement of, return of, note of, [1081].
Felons' Property Act: account by administrator, or interim curator, under, for, [2207]
footnote to, [1078]
formal parts of, [1078], 433 (*i*), (*j*), (*k*), (*l*)
guardian of infant, for appointment of, [1372]
of person and estate, or estate only, [1374]
special, [1383]

SUMMONS (ORIGINATING)—*continued.*
guardian (*quasi*) and maintenance of person of unsound mind, for, [1407]
guardian (special), for appointment of, to convey, or to appoint trustees to receive purchase money—under Lands Clauses Consolidation Acts, [2097]
incumbrances, for discharge of, [2249]; for declaration that land freed, [2250]
issue of, mode of, 433 (*h*)
Lands Clauses Consolidation Acts—for interim investment of money deposited and payment of dividends, under, [2093]
investment in land, for approval of, [2094]
payment out to person absolutely entitled, for, [2095]
special guardian, of infant to convey or release land, for appointment of, [2097]
Law of Property and Trustees' Relief Amendment Acts—for judicial opinion, advice or direction, under, [2161]
sale under power, to establish, [2179]
Legacy Duty Act, fund paid in, under, for payment out of court of, [2152]
transfer into court of stock, for, [2150]
married woman, to bind interest of, notwithstanding restraint on anticipation, [2253]
Married Women's Property Act, 1882—for decision of question between husband and wife, under, [2286]
Mayor's Court, action or suit in, for removal of, [1921]
certiorari, to remove action or suit out of, for, [1922]
Mortgage Debenture Acts—for discharge of satisfied security, under, [2184]
receiver at instance of overdue debenture holder, for, [2186]
Parliamentary Deposits Act—for investment of deposit money and dividends, under, [2076]
dividends on stock deposited, for payment of, [2080]
landowners, or the Treasury solicitor, by, for inquiries and distribution of deposited fund not exceeding £1000, [2085]; official liquidator or receiver, by, [2086]
payment out of deposit, for, [2077]
Pauper Lunatic Acts, for payment out, under, [1409]
person of unsound mind, for appointment of *quasi* guardian and maintenance, of, [1407]
Railway Companies' Act, 1867— for decision of question respecting an execution, under, [2100]
rectification of Register of Trade Marks, for, [1565]
removal of judgment or order of inferior Court, into High Court, for, [1929]
requisitions on title, for decision of Judge, on, under Vendor and Purchaser Act, 1874, [1525]
scheme for management of a charity, for adoption of, [2043]
service of, affidavit of, [1089]; on a substitute, [1090]
settlement of infant's property, where infant not a ward of Court, for, [1403]
Settled Land Acts, under, [2256]—[2284]
advice and direction, for, [2281]
capital money in improvements, for authority to apply, [2273]
directions as to difference between tenant for life and trustees, for, [2280]
formal parts of, [2257]
fund in Court, for application of, in improvements, [2274]
general leasing powers, for, [2258]
grant of particular lease, where contract entered into by tenant for life, for, [2259]; where no contract, [2260]
money paid for lease or reversion, for application of, [2276]
person to exercise powers on behalf of infant, for appointment of, [2282]

SUMMONS (ORIGINATING)—*continued.*
Settled Land Acts, under—*continued.*
payment into Court by lessee under a mining lease, for, [2265]
by mortgagee, [2266]
by purchaser, [2264]
petition, directions as to service of, for, [2283]
sale out of Court of mansion house, or timber, or chattels, for, [2261]; for sale by the Court, [2262]
sanction of Court to proceedings for protection of settled land, for, [2277]
scheme for improvements, for approval of, [2270]
surveyor or engineer, for appointment of, [2271]
tenant for life, by, to enforce a contract, [2275]
tenant for life, by, for liberty to exercise powers conferred by the Act, notwithstanding settlement by way of trust for sale, [2284]
trustees for purposes of the Act, for appointment of, [2278]
Stannaries, decree or order of Court of, to make order of High Court, [931]
judgment of, for leave to issue process on, [930]
stay of proceedings on, because taken out without authority, summons for, [1096]
substituted service of—summons for, [1084]
taxation of solicitor's bill, for, [2024], [2025], [2027]—[2029]
beneficiary, on application, of, [2029]
payment, after, [2025]; third party, by, [2028]
year from delivery, after, [2024]; third party, by, [2027]
title of, notice of Practice Masters as to, [1079]
trade mark, for leave to add to, or alter, [1566]
trust of a deed or instrument, for determination of question or matter arising under, [1147]
for administration of, [1149]
Trustee Relief Act, for transfer out of a fund paid into Court, under, [2053]
Vendor and Purchaser Act, under, [1525]

SUMMONS, WRIT OF, 95 *et seq.* *See* WRIT OF SUMMONS.

SUPPLEMENTAL ACCOUNT:
of personal estate and of rents and profits—affidavit by joint executors and trustees verifying, [1234]. *See* ACCOUNT.

SUPPLEMENTAL CASE ON APPEAL TO HOUSE OF LORDS, 643, [1501]. *See* APPEAL TO THE HOUSE OF LORDS.

SURCHARGE:
against accounting party, [1241]; notice of, [1242]. *See* ACCOUNT.

SURETY:
action against, on recognizance—notice of motion or summons by, to stay, [1716]
appeal to House of Lords: on, sufficiency of—certificate of, [1478]. *See* APPEAL TO HOUSE OF LORDS.
arrest under Debtors Act, 1869, s. 6: on—notice of, [1669]. *See* ARREST OF ABSCONDING DEBTORS.
attending passing of receiver's account—leave for—summons by, for, [1721]
auctioneer on sale under judgment or order: of—recognizance by, 550, [1302]. *See* SALE UNDER JUDGMENT OR ORDER.
contribution by—writ of summons for, [248]
costs: for—affidavit of, in justification, 840, [1944]. *See* COSTS, SECURITY FOR.
guardian: of—recognizances of, [1377], [1378]
solvency of—affidavit of, [1379]

SURETY—*continued.*
receiver: of, 722—728. *See* RECEIVER.
writ of summons against, [248]

SURVEYOR:
affidavit by, as to reserved biddings, [1298]. *See* SALE UNDER JUDGMENT OR ORDER.
on summons for approval of investment by trustees of a fund in their names in a purchase or mortgage, [1199]. *See* INVESTMENT IN REAL ESTATE.
inspection by, of premises or underground workings, 785—786. *See* INSPECTION OF PROPERTY.
Settled Land Act, under—appointment of—summons for, [2271]
nomination of, by the trustees, [2272]. *See* SETTLED LAND ACT.
valuation by, [1299]

TAXATION, 614 (*c*), (*d*), (*e*)—620: summary of material provisions of R. S. C. 1883, as to, 614—616 (*e*)
account: when bill of costs claimed, in. *See* Chambers, *infra.*
action brought: after—petition of course for, [2021]
affidavit of service of warrant to leave or bring in bill of costs [1441]
allowances, discretionary, 614 (*d*)
special, to be made by Taxing Master, 615 (*e*)
apportionment of costs, 613 (*b*); between different funds, 614 (*c*)
attendance on, 615 (*e*)
bill of costs—headings of, [1434]
certificate of no previous reference, 617 (*h*), [1436]
certificate verifying copy of judgment or order, 617 (*g*), [1157], [1435]
Chambers: at, 524 (*q*); request for, [1244], [1245]; to officer of another Court, [1246]
costs, charges and expenses, 614 (*d*)
delay before Taxing Master, 615 (*e*)
delivery of bill: after a year from, when unpaid—summons for, [2024]
delivery of bill: for—petition of course by party chargeable, [2022]
extension of time for—summons for, [2023]
differ—where parties, 615 (*e*)
discharge of order for, irregularly obtained, [2030]
enforcing payment of, 620 (*q*)
fees on, 617 (*j*); on warrant, 617 (*k*)
fund in Court—costs payable out of, 614 (*c*), 615 (*e*)
headings of bill of costs for, 616 (*f*), [1434]
House of Lords: taxing officer of—request to tax bill of costs, [1506]
indorsement of name of solicitor on bill of costs for, 615 (*e*)
interested party—summons for, by, [2029]
judgment or order—certificate verifying copy of, [1435]
leave or bring in costs—warrant to, [1440]; affidavit of service, [1441]
leaving bill for—warrant on, [1438]
master for, in rotation—certificate of name of, [1437]
method of, 614 (*d*)
notice of, 615 (*e*)
objections to: allowance or disallowance of items on—statement of, 619 (*m*), [1442]
proceeding on—warrant for, [1443]
order on petition of solicitor for, [2019]
discharge of, where irregularly obtained—notice of motion for, [2030
service of, 869 [2019 (8)]

TAXATION—*continued.*
paid bill of costs: of—summons for, [2025]
party and party, between, 614 (*d*)
petition of course for, [2018]; by the party chargeable, [2020]; after action brought, [2021]; and for delivery of bill, [2022]
principles of, the, 614 (*d*)
proceedings on, generally, 616 (*e*)
reference for, 615 (*e*): certificate that none previously, [1436]
costs of: order as to, [2019 (3)]
stay of proceedings pending—order for, [2019 (7)]
refusal or neglect to procure, 615 (*e*)
request to taxing officer of House of Lords to tax bill of costs, [1506]
review of, 616 (*e*), 619 (*p*); summons for, [1444]
scale of, 614 (*e*)
solicitor and client, between, 614 (*d*)
summons for: by interested party—after a year from delivery, [2024]
taxing master—certificate by, of name of taxing-master in rotation, 617 (*i*), [1437]
power of, to limit or extend time, 615 (*e*)
taxing officer of another Court—request to: to tax bill of costs claimed in an account, [1246]
third person, by—petition of course for, [2026]
after a year from delivery—summons for, [2024—2027]
of bill of costs paid already—summons for, [2028]
warrant for, [1439]; to leave or bring in bill of costs, [1440]
for proceeding on objections, [1443]
on leaving a bill of costs, [1438]
to leave or bring in a bill of costs, [1440]; affidavit of service, 618 (*l*), [1441]

TENDER, FORM OF, [1327]. *See* SALE UNDER JUDGMENT OR ORDER.

TEST ACTION, 816, 818:
defendant's summons for stay of other actions until trial of, [1882]; plaintiff's, [1883]
judgment—entering after trial of—summons for, [1884]

TESTIMONY. *See* EVIDENCE, 283—312.
perpetuation of, 675—676. *See* PERPETUATION OF TESTIMONY, ACTION FOR.

THIRD PERSON, 68, 69 (*b*)—73; summary of material provisions of R. S. C., 1883, as to, 68—69 (*a*)
appearance by, under Order XVI., 161. *See* APPEARANCE.
memorandum of, [150], [402]
appearance by—leave for, notwithstanding time has elapsed [151]
memorandum of, [150]
notice of, [152]
co-defendants—cross-claim—notice of, [157]
counter-claim against, [406], [586], [587]. *See* COUNTER-CLAIM AND SET-OFF.
directions after appearance of third party—notice of motion or summons for, [156]
judgment—notice of motion or summons for, after decision of the action otherwise than by trial, [155]
judgment—setting aside or varying—notice of motion or summons by third party, [154]
notice to, under Order XVI., r. 48, [149]
leave for—notice of motion or summons, [147]; affidavit in support, [148]
setting aside—notice of motion or summons for, [153]
taxation of bill of costs by, [2026], [2027], [2028]. *See* TAXATION.

TIMBER:
felling of: injunction to restrain—notice of motion for, [1626]
leave for—receiver's summons for, [1703]
land tax, selling to redeem—petition for, [2154]
particulars and conditions of sale as to, [1292 (7)]
payment into Court of value of—summons for, [1329]; by separate purchasers, [1330]
valuation of: condition of sale as to, [1292 (7)]

TIME:
appeal to the Court of Appeal, for, 623 (*c*). *See* APPEAL TO THE COURT OF APPEAL.
appeal to the House of Lords, for, 636 (*q*). *See* APPEAL TO THE HOUSE OF LORDS.
pleadings, for delivery of, 190; summary of material provisions as to, 190 (*a*)
And *see* the various proceedings.

TIPSTAFF, 398—399
apprehension by—motion paper for, [1005]
duties of, 398 (*t*)
warrant to, [1006]

TITLE OF PROCEEDINGS:
affidavit, of, 4 (*c*)
originating summonses, of—notice of Practice Masters as to, [1079]
title and reference to record 1 (*c*), [1a]
short, and reference to the record [1b]
And *see* the various proceedings.

TITLE TO PROPERTY, 546, 547, 574
abstract of—condition as to delivery of, [1292 (6)]
delivery of—summons for, [1328]
examination of, by the solicitor—affidavit of, [1200]; by another person, [1201]
advising on—Chief Clerk's direction to conveyancing counsel for—memorandum of, [1202]
covenants for—condition of sale as to, [1293 (7)]
declaration of, 956. *See* DECLARATION OF TITLE ACT.
deeds, condition of sale as to, [1293 (8)]; acknowledgment of right to production of, [1293 (8)]
purchaser's summons for, [1354]
inquiry as to, result of—Chief Clerk's certificate of, [1215]
objections and requisitions on—condition of sale as to delivery of, [1292 (6)]
root of, condition of sale as to, [1293 (2)]

TORT:
security for costs in action for, or removal to County Court—summons for, [1901]; affidavit in support, [1902]

TRADE-MARKS AND TRADE NAMES—actions and proceedings relating to, 670—672
adding to or altering trade-mark—leave for—notice of motion or summons for, [1566]
infringement, action for, 670
restraining infringement—notice of motion for, [1562]
writ of summons in—indorsement on, [1561]

TRADE-MARKS AND TRADE NAMES—*continued.*
rectification of the Register of Trade Marks—notice of motion or summons for, [1565]
registration of—summons to proceed with, notwithstanding opposition, [1563]
special case—application for settlement of, on application to register a trade mark, [1564]

TRAMWAYS ACT, 1870, 974—978
advertisement for creditors, when the promoters are an insolvent company ordered to be wound up, or having had a receiver appointed, [2218]
advertisement for road authorities claiming compensation, [2217]
certificate of fitness by secretary or assistant-secretary of Board of Trade—signature to—affidavit verifying, [2215]
deposit—investment of and payment of dividends—summons for, [2211]; signatures to—affidavit verifying, [2079], [2212]
payment out of cash or transfer out of stock, when tramway completed within prescribed time, or when provisional order not confirmed—summons for, [2213]
signatures to—affidavit verifying, [2079], [2214]
when tramway not completed within prescribed time, [2216]
lodgment of cash—direction for—request for, [2209]
securities—direction for—request for, [2210]

TRANSCRIPT:
account of fund in Court: of—request to Paymaster for, [1724]
reference to: in Chief Clerk's certificate, 602, [1410 (1)]
short-hand notes: of—affidavit verifying, [670]

TRANSFER OF CAUSE, 819—823; summary of material provisions of R. S. C. 1883, as to, 819—820 (*j*)
administration order: after—motion paper for, [1892]; summons for, [1893]
Chancery Division: to—consent of President to, [1891]
in: from one Judge to another—petition for, [1887]; consent to, [1888]; notice of motion for, [1889]
County Court, to, of action or matter—summons for, [1903]
District Registry: to or from, 187, 188, 823, 824. *See* DISTRICT REGISTRY.
Division: to another—notice of motion for, [1889], [1890]; petition, [1886]; summons, [1890]
from a wrong—notice of motion or summons for, [1885]
High Court: from, to County Court, 824—826. *See* REMOVAL OF CAUSE.
Inferior Court: from, to High Court, 826—836. *See* REMOVAL OF CAUSE.
Judge: to another—notice of motion for, [1889]; notice of motion or summons for, [1890]
winding up order—after; motion paper for, [1892]; summons for, [1893]

TRANSFER INTO COURT, 742—760. *See* PAYMENT, ETC., INTO COURT.

TRANSFER OUT OF COURT, 760—783. *See* PAYMENT, ETC., OUT OF COURT.

TRANSFER OF STOCK:
notwithstanding restraining notice—request for, [1640]
See RESTRAINING TRANSFER OF STOCK OR SHARES.

TRANSLATION:
affidavit, of a foreign—verification of, 10 (*d*), [14]
depositions, of, taken before an examiner or commissioners, 299, 300
appointment of translator—motion paper for, [730]; petition of course for, [731]
verification of translation, [732]. *See* EXAMINER.

TRANSMISSION OF INTEREST:
alteration of parties, on, 84—92. *See* CARRYING ON PROCEEDINGS, AND SUCCESSORS.

TRESPASS:
defence in actions for, [575]
writ of summons for—endorsement on, [297]

TRIAL, 323—350; summary of material provisions of R. S. C. 1883, as to, 323 (*a*), 332 (*a*), 336, 340 (*a*), 348 (*a*)
adjournment of, 333; consent to, [829]; notice of motion for, [830]
advance of—notice of motion for, [828]
affidavit at, 276—282. *See* EVIDENCE BY AFFIDAVIT.
affirmation at, 310—312. *See* AFFIRMATION.
appearance at: default of, 335, [834], [835], [897], [898]
arbitrators, by, 925—932
assessors—notice of motion or summons for, with, [813]
Associate's certificate of result of, [855]
brief on, 333; where evidence by affidavit—contents of, [833 (1)]; indorsement, [833 (2)]; *vivâ voce* in open Court—contents of, [832 (1)]; indorsement, [832 (2)]; with a jury, [844]
causes of action that are distinct: of, separate—notice of motion or summons for, [815]
compromise before—certificate of, [826]
countermand of. *See* notice, *infra*.
County Court—in, 347—348. *See* COUNTY COURT.
day for: fixing—notice of motion for, [831]
different modes of, for different issues—notice of motion or summons for, [816]
entry for, 329; summary of material provisions of R. S. C. 1883, as to, 329 (*u*); *præcipe* for, [821]
withdrawal, after. *See* withdrawal, *infra*.
findings at: entry of, 339 (*l*); officer's certificate of, [855]
inferior Courts: in. *See* the different Courts.
issues of fact: of. *See* ISSUES OF FACT.
Judge alone: by, 332—336; judgment at, [838]
judgment at, 352—355. *See* JUDGMENT.
judgment at: entry of—officer's certificate of, [855]
judgment in default of appearance at, [834], [835], [897], [898]
setting aside—notice of motion for, [836]
jury—notice of motion or summons for trial of action with, [814], [840]
proceedings as to, 338—339. *See* JURY.
right to, 323 (*a*), 327 (*o*)
without—notice of motion or summons for trial of issues of fact, [817]. And *see* ISSUES OF FACT.
law, of questions of: setting down point of law for hearing—notice of motion o summons for, [608]
mode of, 323—350
notice of motion or summons for, [813]

TRIAL—*continued.*
new: 348—349; summary of material provisions of R. S. C. 1883, as to, 348 (*a*); notice of motion for, [879]
time to apply for: extension of—summons for, [878]; after time expired, [878]; and *see* NEW TRIAL.
notice of, [811], 324—329; summary of material provisions of R. S. C. 1883, as to, 324—325 (*e*)
countermand of, [820]; consent to, [818]; leave for—summons for, [819]
default in: dismissal of action for, 325 (*g*); notice of motion or summons for, [810]
place of: by plaintiff, [807]
service of: affidavit of, 326 (*i*), [812]
time for: extension of—summons for, [809]
oaths at, 310—312. *See* OATHS.
place of—notice of, by plaintiff, 324, [807]; change of, 324; notice of motion or summons for, [808]
postponement of—notice of motion for, [830]
premature—consent to, [827]
proceedings on, 823—846
referee: before, 340—346. *See* REFEREE.
separate: of distinct causes of action—notice of motion or summons for, [815]
"short," 330; certificate for, [822]; notice, [823]
special jury: by, 336—337. *See* JURY.
time for—notice of motion to fix, [831]
verdict at, [854]
withdrawal from, 331; consent to, [824]; leave for—notice of motion or summons for, [825]
witnesses: compelling attendance of, at, 300—309. *See* SUBPŒNA, WRIT OF.
And *see* ISSUES OF FACT—EVIDENCE—WITNESS—JUDGMENT—NEW TRIAL—SPECIAL CASE.

TRUST:
debt upon—special indorsement on writ of summons in action for, [326]

TRUSTEE:
account by joint trustees and executors, [1232], [1233]; affidavit verifying, [1231]; and non-receipt of anything further, [1237]
by sole trustee, [1236]; and non-receipt of anything further, [1238]
writ of summons for—indorsement on, [330]
appointment of, 537 (*s*); summons for, [1276]; and *see* new, *infra.*
of a charity, [2039]
bankruptcy: in—allegation as to, common form of, in petition for order to carry on proceedings, [179]
description of, in writ of summons, [204 (r)]
consent of, to act, [1274]
signature to—affidavit verifying, [1275]
convey: refusal of, to—petition for vesting order because of, [2054]
fitness of—affidavit of, [1273]
incumbrances: notice of, to—affidavit of, [1195]
investment by: approval of—summons for, [1198]
surveyor's affidavit in support, [1199]
management of property, by, 525—529. *See* ADMINISTRATION ACTION.
new: consent to act, [1274]
affidavit verifying signature to, [1275]
summons for appointment of, [1276]

TRUSTEE—*continued.*
eligibility of—affidavit of, [1273]
payment of dividends or interest on fund in Court to—summons for, 1763]; of charity, [1764]
payment, &c., into Court by, 884—889. *See* TRUSTEE RELIEF ACT.
power of appointing—summons for liberty to exercise, [1277]
Romilly's Act: under—appointment of, [2039]
settled estates, of, [2221]. *See* SETTLED ESTATES ACT.
Trustee Acts 1850 and 1852, 889 (*a*)—898
chose in action: vesting order for, under—petition for, [2064]
contingent right in trustee under age, out of jurisdiction, not to be found, &c.: release from—petition for, under, [2059]
disposal of—petition for, under, [2060]; for appointment of a person for, [2061]
in unborn person or class: vesting order, under, because of—petition for, [2057]
convey: appointment of a person to—petition for, under, [2058]; summons, where judgment or order for conveyance, [2070]; for sale, [1339], [2068]
copyhold: consent of lord of manor to order vesting, [2071]; affidavit verifying signature, [2072]
dividends: receipt of, vesting order for, under—petition for, [2062]
heir of trustee unknown: vesting order, under, because—petition for, [2055]
infant: where trustee is, vesting order under—petition for, [2054]
intestacy of trustee, vesting order, under, because of—petition for, [2055]
jurisdiction: out of, where trustee is, vesting order, under—petition for, [2054]
new trustee: appointment of, under, and for vesting order—petition for, [2065]; evidence in support, [2066]
refusal to convey: vesting order, under, because of—petition for, [2054]
sale, order for: appointment of person to convey—summons for, by purchaser, [1339]
stock: order vesting right to transfer, under—petition for, [2062]; for direction to Bank officer, [2063]
survivor of trustees unknown: vesting order, under, because—petition for, [2056]
transfer stock: order vesting right to—petition for, [2062]; for direction to Bank officer, [2063]
unknown: where trustee is, vesting order, under—petition for, [2055]
vesting order, and appointment of new trustee, under—petition for, [2065]
where judgment or order has been made for sale—summons for, [1340], [2067]; for conveyance, [2069]
where judgment or order has been made directing a transfer of stock, 897 (*q*), [2073]

TRUSTEE RELIEF ACTS, 884—889:
payment, &c., into Court, under—trustee's affidavit for, [2048]
Government securities: lodgment of—direction for, [2049]
bank certificate of transfer, [2050]
lodgment schedule to affidavit, [2048]
notice of, [2051]
payment out, of fund paid in, under—petition for, [2052]; summons, [2053]
And *see* LAW OF PROPERTY AMENDMENT ACT.

References to the Forms are printed thus [479].

UMPIRE, 926, 928. *See* ARBITRATION.

UNDERTAKING:
to appear, [366]; by indorsement, [367]
to bring infant back within jurisdiction, [1335]
to pay damages on *ne exeat regno*, on infant's behalf, [1659]

UNSOUND MIND, PERSON OF, 52—60, 599—600:
actions or proceedings against, 54—60. *See* GUARDIAN *AD LITEM*.
actions or proceedings by, 52—54. *See* NEXT FRIEND.
Chambers, proceedings in, as to, 599—600. *See* guardian, maintenance, *infra*.
default in appearance by—assignment of a guardian *ad litem*—notice of motion or summons for, [419]
defendant: service on. *See* service, *infra*.
description of, in writ of summons, [204 (ee)]
dismissal of action by one falsely alleged to be—notice of motion for, [114]
guardian (*quasi*) of: appointment of—summons for, and allowance for maintenance, [1407]; affidavit in support, [1408]
ad litem: of, 54—60. *See* GUARDIAN *AD LITEM*.
maintenance of: summons for, and appointment of *quasi*-guardian, [1407]: under Pauper Lunatic Acts, [1409]; affidavit in support, [1408]
next friend of, 52—54. *See* NEXT FRIEND.
service on, of writ of summons—affidavit of, [414]
special—summons for, [115]
affidavit in support, [117]
stay of proceedings, where person of unsound mind sues neither by committee nor next friend—summons for, [113]

VACATING:
judgment, 177, 358. *See* JUDGMENT, SETTING ASIDE.
recognizance, receiver, by, 737. *See* RECEIVER.
sale, on, 561 (*a*)

VACATION:
Chambers and Judges since 1875, list of, 454 (*f*)
formal parts of summons returnable in: at Chambers of Vacation Judge, [1142], [1143]
transaction of business during, 454 (*f*)

VALUATION:
realty: of, for sale under judgment or order, [1299]
surveyor's affidavit of, [1298]

VARYING:
judgment or order appealed from, 627 (*p*)
notice by respondent for, [1461]. *See* APPEAL TO THE COURT OF APPEAL.
service of—affidavit of, [1462]
minutes of judgment—notice of motion for, 357 (*e*), [901]
order to carry on proceedings—notice of motion for, [188]

VENDITIONI EXPONAS, WRIT OF, 381 (*i*)
form of, [957]
indorsements on, [936—939]
præcipe for, [956]

References to the Forms are printed thus [479].

VENDOR :
compensation : payment of, by purchaser—summons for, by, [1334]
conveyance : draft of—summons by, to compel purchaser to leave, [1335]
discharge of purchaser—summons for, by, [1356]
purchase money—Chief Clerk's certificate of amount of, remaining due to, [1310]
And *see* SALE UNDER JUDGMENT OR ORDER.

VENDOR AND PURCHASER ACT—summons under, [1525]

VENUE, 324 (*b*)
change of—notice of motion or summons for, [808]

VERDICT, 339
delivery of, [854]
oath of usher on jury retiring to consider, [853]

VESTING ORDER :
Trustee Acts : under, 889 *et seq.* *See* TRUSTEE.

VEXATIOUS ACTION :
stay of proceedings in, 245 (*g*), 847 (*g*) ; notice of motion or summons for, [613], [1964]

VICE-WARDEN OF COURT OF STANNARIES, 370—372. *See* STANNARIES, COURT OF VICE-WARDEN OF.

VIEW BY THE JURY, 337
summons for, [843]. *See* JURY.

VIVÂ VOCE EVIDENCE, 283—312. *See* EVIDENCE *VIVA VOCE*.

VOUCHING :
an account : special directions as to—summons for, [1243]. *See* ACCOUNT.

WANT OF PROSECUTION :
dismissal of action for—notice of motion or summons for, 248 (*c*), [615] *See* DISMISSAL OF ACTION.

WAR DEPARTMENT :
compensation by, 948 (*c*), (*d*)—949. *See* DEFENCE ACTS.

WARD OF COURT :
apprenticing or articling—indenture for, [1391]
leave for—summons for, [1389] ; affidavit in support, [1390]
guardian of : appointment and removal of, 580—586. *See* GUARDIAN.
jurisdiction : taking out of, leave for—summons for, [1384] ; undertaking thereon, [1385]
maintenance and advancement of, 586 (*w*), (*x*)—588. *See* INFANT.
marriage of, 591 (*c*)

WARD OF COURT—*continued.*
marriage of—*continued.*
committal of husband for—notice of motion for, [1393]
injunction to restrain—notice of motion for, [1625]
interdicting—petition for, [1392]
leave for—summons for, 594 (*k*), [1399]
order approving—recital of, in settlement, [1406]
proof of—affidavit in, [1402]
settlement on—proposals for, 595 (*l*), [1400]
preparation and completion of, [1401]
validity of: inquiry as to—notice of motion for, [1394]; petition, [1395]
And *see* INFANT.

WARRANT:
demand for, in action against constable, [194]
fi. fa.: on a, [946]; indorsement on, [938]
Taxing Master: of, 617 (*j*), (*k*)—618
bill of costs: on leaving, [1438]; to leave or bring in, [1440]
taxation of: for, [1439]
objections: to proceed on, [1443]
service of—affidavit of, [1441]
tipstaff: to, [1006]. *See* TIPSTAFF.
And *see* TAXATION.

WIFE. *See* HUSBAND AND WIFE—MARRIED WOMAN.

WINDING UP ORDER:
transfer after—motion paper for, [1892]; summons for, [1893]

WITHDRAWAL:
action entered for trial: of—consent to, [824]; notice of motion or summons for, [825]. *See* ACTION and DISCONTINUANCE.
appeal to Court of Appeal: of:
motion-paper for, by consent, [1456]; not by consent, [1457]. *See* APPEAL TO THE COURT OF APPEAL.
to House of Lords: of, on payment of respondent's costs—petition for, [1502]; without costs, [1504]
notice of intention to present, [1503]. *See* APPEAL TO THE HOUSE OF LORDS.
claim: of part of, 255, [635]; notice of, [634]; and *see* DISCONTINUANCE.
counter-claim or defence: of, 257; notice of motion or summons for, [641]

WITNESS:
abroad, 293—300. *See* COMMISSION TO EXAMINE WITNESSES ABROAD.
compelling. *See* attendance, *infra.*
dispensing with—notice of motion or summons for, [704], [705], [706]
affidavit by, 276—282. *See* EVIDENCE BY AFFIDAVIT.
affirmation by, 310—312. *See* AFFIRMATION.
arrest of. *See* discharge, *infra.*
attendance of: on appeal—notice for, [1469]; *subpœna* to, [1468], [734]; *præcipe*, [1467], [733]
arbitration: on, 928 (*r*); motion-paper for, [2126]; petition of course, [2127]
chambers: at—Chief Clerk's summons for, [1109]. *See* EVIDENCE IN CHAMBERS, 443—450.

References to the Forms are printed thus [479].

WITNESS—*continued.*
compelling, 300—309. *See* SUBPŒNA, WRIT OF—*HABEAS CORPUS AD TESTIFICANDUM*, WRIT OF.
dispensing with—notice of motion or summons for, [704], [705], [706]
cross-examination of—depositions on, [713]; at Chambers, [1119]
notice to produce at trial for, [692]; at Chambers or before an examiner—summons for, [1104]
extension of time for service of—summons for, [691]
de bene esse: examination of, 313—315. *See DE BENE ESSE* EXAMINATION OF WITNESSES.
depositions by, before Chief Clerk—formal parts of, [1118]; on cross-examination—formal parts of, [1119]
before an examiner, [713]. *See* EXAMINER.
discharge of, from custody, 402—403
documents. *See* production, *infra*; and *see* SUBPŒNA, WRIT OF.
examiner: before, 284—292. *See* EXAMINER.
habeas corpus for, 304—306. *See HABEAS CORPUS AD TESTIFICANDUM*, WRIT OF.
interrogatories—examination of, by, 447—450. *See* EVIDENCE IN CHAMBERS.
Ireland: in, 303 (*j*), 307. *See* SUBPŒNA, WRIT OF.
non-attendance of, at Chambers—affidavit of, [1110]
before examiner—certificate of, [764], [765]
notice to: of time and place of attendance, [708]; at Chambers, [1109]; before an examiner, [708], [1107]
oath by, 310—312. *See* OATH.
objection by, [793]; overruling—notice of motion for, [794]
prisoner. *See habeas corpus, supra.*
production of documents by: refusal of—examiner's certificate of, [765]
proving deed: oath of, [772—786]; questions put to, [674]
refusal by, to produce documents—examiner's certificate of, [765]; to be sworn, [764], [765]
Scotland: in, 303 (*j*), 307. *See* SUBPŒNA,—WRIT OF.
sheriff: before, on *elegit*, [977—980]. *See ELEGIT.*
subpœna for attendance of, 300—309. *See* SUBPŒNA, WRIT OF.
trial with: *præcipe* on entering, [821]
And *see* EVIDENCE *VIVÂ VOCE.*

WRIT OF ATTACHMENT, 393—404. *See* ATTACHMENT, WRIT OF.

WRIT OF *CERTIORARI*, 827—829. *See CERTIORARI*, WRIT OF.

WRIT OF DELIVERY, 426—428. *See* DELIVERY, WRIT OF.

WRIT OF *DISTRINGAS NUPER VICECOMITEM*, 382 (*l*). *See DISTRINGAS NUPER VICECOMITEM*, WRIT OF.

WRIT OF *ELEGIT*, 386—392. *See ELEGIT*, WRIT OF.

WRIT OF EXECUTION, 359—429. *See* EXECUTION.

WRIT OF *FIERI FACIAS*, 372—386. *See FIERI FACIAS*, WRIT OF.

WRIT OF *FIERI FACIAS DE BONIS ECCLESIASTICIS*, 383—384. *See* *FIERI FACIAS DE BONIS ECCLESIASTICIS*, WRIT OF.

WRIT OF INQUIRY, 350 (*a*). *See* INQUIRY, WRIT OF.

WRIT OF *NE EXEAT REGNO*, 709—712. *See* *NE EXEAT REGNO*, WRIT OF.

WRIT OF POSSESSION, 423—426. *See* POSSESSION, WRIT OF.

WRIT OF PROHIBITION, 707—708. *See* PROHIBITION, WRIT OF.

WRIT OF *SEQUESTRARI FACIAS DE BONIS ECCLESIASTICIS*, 385—386. *See* *SEQUESTRARI FACIAS DE BONIS ECCLESIASTICIS*, WRIT OF.

WRIT OF SEQUESTRATION, 404—413. *See* *SEQUESTRARI FACIAS DE BONIS ECCLESIASTICIS*, WRIT OF—SEQUESTRATION—SEQUESTRATORS.

WRIT OF *SUBPŒNA*, 300—309. *See* *SUBPŒNA*, WRIT OF.

WRIT OF SUMMONS, 95—153; summary of material provisions of R. S. C. 1883, as to form of, 96 (*c*)
- administration actions, in—separate index kept, 130 (*c*)
- amendment of, 132—136; summary of material provisions of R. S. C. 1883, as to, 132—133 (*a*)
  - abandonment of claim by: payment of defendant's costs on—summons for, [360]
  - clerical errors: of—motion paper for, [351]; petition of course, [352]
  - costs of claim abandoned by: payment of—summons for, [360]
  - fee on, 134 (*c*)
  - irregular order for: discharge of—summons for, [359]
  - leave for—motion paper for, [353]; petition of course, [354]; summons, [355]
  - *præcipe* for, [357]
  - striking out, summons for, [358], [359]
  - time for, extension of—summons for, [356]; after time expired, [356]
- authority for issuing, 95 (*b*), [195]: discovery of, 185 (*a*); demand for, [448]; declaration in reply thereto, [449]
  - stay of proceedings for, until reply—notice of motion or summons for, [450]; affidavit in support, [451]
- certificate of solicitor as to assignment of cause or matter, 128 (*c*), [341]
- concurrent, 130; summary of material provisions of R. S. C. 1883, as to, 130 (*a*): leave for service out of jurisdiction, or whereof notice in lieu of service is to be given—motion paper for, [343]; summons, [344]; affidavit in support, [345], [372]
- copy—summons for leave to use, in lieu of the original, where the same is lost, [350]
- descriptions of official and corporate bodies and persons in:
  - Attorney-General of Queen without a relator, [204]
    - with a relator, [204a]
    - with a corporation aggregate as relator and plaintiff, [204b]
    - on behalf of a lunatic, [204c]
  - Attorney-General of Prince of Wales, [204d]
  - Bank of England, [204j]

Rec'd. 9/3/59
O/N 522